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SUPREME COURT. U.S.

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

JORETTA STARVUS STACK, AL  
RICHMOND, PHILIP MARSHALL  
CONNELLY, DOROTHY ROSENBLUM  
HEALEY, ERNEST OTTO FOX,  
WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

No.

Petitioners-Appellants,

-vs-

JAMES J. BOYLE, United States  
Marshal,

Respondent.

TRANSCRIPT OF RECORD ON APPEAL

(PHILIP MARSHALL CONNELLY)

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Notice Of Appeal

Designation Of Record



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8 IN THE UNITED STATES DISTRICT COURT

9 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 CENTRAL DIVISION

11 PHILIP MARSHALL CONNELLY,

12 Petitioner,

13 v.

14 JAMES J. BOYLE, United  
States Marshal,

15 Respondent.  
16

No. 13438-WM

PETITION FOR WRIT OF

HABEAS CORPUS

17  
18 TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
19 SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION:

20 PHILIP MARSHALL CONNELLY, the petitioner above named hereby  
21 petitions this honorable Court for a writ of habeas corpus di-  
22 recting the respondent James J. Boyle, United States Marshal for  
23 the Southern District of California, in whose custody petitioner  
24 is now restrained of his liberty, to produce the body of your  
25 petitioner, Philip Marshall Connelly before this Court at a time  
26 and place specified and then and there to show cause why peti-  
27 tioner should not be released from the custody of the respondent  
28 upon bail in such reasonable sum as may be determined by this  
29 Court; and in support thereof, your petitioner alleges as follows:

30 I.

31 On July 26, 1951, your petitioner was arrested near his home  
32 in the city of Los Angeles, County of Los Angeles, State of



1 California, upon a warrant issued July 25, 1951 by Howard V.  
2 Calverley, United States Commissioner in the Southern District of  
3 California, pursuant to a complaint charging your petitioner and  
4 one William Schneiderman with conspiracy to commit offenses against  
5 the United States prohibited by Section 2 of the Smith Act, 54 Stat.  
6 671.

7 II.

8 Following petitioner's arrest and on July 26, 1951, your peti-  
9 tioner was arraigned before said United States Commissioner and by  
10 said Commissioner was ordered to be held in the custody of the  
11 respondent herein upon bail fixed by said Commissioner in the sum  
12 of \$75,000 and by virtue of such order your petitioner was confined  
13 in the County Jail of the County of Los Angeles in the custody of  
14 said respondent on said day and where petitioner has continuously  
15 remained until the present time.

16 III.

17 Thereafter and on or about July 27, 1951, your petitioner  
18 filed a petition for writ of habeas corpus in this Court praying  
19 that the writ issue and that your petitioner be released from the  
20 custody of the respondent upon reasonable bail in order that peti-  
21 tioner might properly prepare petitioner's defense and because the  
22 fixing of excessive bail by the United States Commissioner consti-  
23 tuted a violation of the rights guaranteed to him by the Constitu-  
24 tion of the United States.

25 IV.

26 An order to show cause why the said petition for writ of  
27 habeas corpus should not be granted was signed by Honorable Leon  
28 R. Yankwich, a judge of this Court on July 27, 1951 and made re-  
29 turnable before said Court on July 31, 1951 at 10 A.M.

30 V.

31 Upon information and belief, the United States Attorney  
32 summoned the Grand Jury to convene on July 31, 1951 at 9 A.M. and

1 in the space of about fifteen minutes, the said Grand Jury re-  
2 turned the indictment herein charging your petitioner together  
3 with eleven other named defendants with conspiracy to violate  
4 Section 2 of the Smith Act, 54 Stat. 671.

5 VI.

6 That on July 31, 1951 when your petitioner's petition for  
7 writ of habeas corpus came on for hearing the Court was informed  
8 by the United States Attorney that an indictment had been returned  
9 and that for the aforesaid reason, the hearing on the petition for  
10 writ of habeas corpus before the Court had become moot, and that  
11 thereupon the Court discharged the order to show cause why the  
12 petition for writ of habeas corpus should not be granted.

13 VII.

14 Thereupon, and on the same day, your petitioner was taken be-  
15 fore the Honorable James M. Carter, a judge of this Court before  
16 whom the indictment was returned and the said Court then announced  
17 that it was fixing bail in an amount recommended by the Grand Jury.  
18 Upon information and belief, the true bill returned against the  
19 defendants including your petitioner contained no recommendation  
20 by the Grand Jury relative to bail. Upon information and belief,  
21 the names of the defendants were written on a copy of the indict-  
22 ment with the notation of \$75,000 for all defendants except the  
23 defendant, William Schneiderman, where the notation was \$100,000,  
24 and that these writing were unsigned.

25 VIII.

26 Thereafter, and on August 6, 1951, your petitioner moved in  
27 the United States District Court for the Southern District of  
28 California, Central Division, to fix bail in a reasonable sum or  
29 if bail had been fixed in the sum of \$75,000 as aforesaid, then  
30 for a reduction of this excessive bail to a reasonable amount.

31 IX

32 On August 6, 1951, the aforesaid motion to fix or reduce bail



1 came on for argument before the Honorable James M. Carter, United  
2 States Judge for the Southern District of California, Central Divi-  
3 sion.

4 X.

5 Before the commencement of the argument of the motion to ~~fix~~  
6 or reduce bail your petitioner along with the other defendants  
7 named in the indictment herein except William Schneiderman filed  
8 with the said Court an affidavit of personal bias and prejudice and  
9 requested the said Court to disqualify itself and to transfer the  
10 hearing on bail to another judge of the District Court pursuant to  
11 the provisions of 28 U.S. C.A. section 144; that said Judge de-  
12 clined to disqualify himself and held the affidavit of personal  
13 bias and prejudice legally insufficient on August 7, 1951.

14 XI.

15 Thereupon, and at the request of counsel for petitioner, the  
16 said Judge James M. Carter withheld his ruling on petitioner's  
17 motion to fix or reduce bail until an application could be made to  
18 the United States Court of Appeals for the Ninth Circuit for a  
19 ruling on the sufficiency of the aforesaid affidavit of bias and  
20 prejudice.

21 XII.

22 Thereafter petitioner filed in said Court of Appeals his peti-  
23 tion for writ of mandamus and/or prohibition to obtain said ruling  
24 in a proceeding entitled and numbered in said Court as Philip  
25 Marshall Connelly, petitioner vs. the United States District Court  
26 in and for the Southern District of California, Central Division,  
27 et al, No. 13,053. On August 24, 1951 said Court filed its opinion  
28 in said action concluding with its order as follows:

29 "The petition for the permanent writ of prohibition  
30 ordering the respondent Judge to take no action in  
31 any matter affecting petitioner respecting his con-  
32 tentions regarding bail or in connection with his

1 States, born in 1903 at Everett, Bedford County, Pennsylvania.  
2 Continuously since 1912 he has been a resident of the State of  
3 California, having lived in the County of Los Angeles from 1912  
4 to 1922, inclusive, and from approximately <sup>1923</sup> 1926 to date.

5 (b) Petitioner is married and lives with his wife in the City  
6 of Los Angeles at 1733½ West 84th Street, in a home owned jointly  
7 by his wife and her mother. Petitioner owns no real property and  
8 has no earnings or assets other than his salary, as hereinbelow  
9 set forth.

10 (c) Petitioner's parents were born in the United States, his  
11 mother's family having migrated to Pennsylvania from Germany early  
12 in the Nineteenth Century and his father's family having come to  
13 the New England states from Ireland at about the same period.

14 Petitioner has brothers living and employed in Southern California.

15 (d) Petitioner is employed as Los Angeles editor of the Daily  
16 People's World, a newspaper of general circulation, at a salary of  
17 \$50.00 per week. Prior to his employment in such capacity approxi-  
18 mately two years ago, petitioner was secretary-treasurer of the  
19 Los Angeles CIO Council, a federation of trade unions affiliated  
20 with the Congress of Industrial Organizations, for a period of  
21 eleven years, and prior thereto was a working newspaperman em-  
22 ployed from time to time on various daily newspapers published  
23 in the State of California. Petitioner was the second president  
24 of the Los Angeles chapter of the American Newspaper Guild, was  
25 an international vice-president of the American Newspaper Guild  
26 from approximately 1937 to approximately 1943, and was the first  
27 president of the California State CIO Council, a state-wide fed-  
28 eration of trade unions affiliated with the Congress of Industrial  
29 Organizations, for a period of approximately six years.

30 (e) Petitioner's daughter by a previous marriage resides in  
31 the City of San Francisco, California.

32 (f) In the course of his activities as a member and leader



1 of the American Newspaper Guild and the CIO as aforesaid, peti-  
2 tioner has heretofore been arrested for picketing activities on  
3 several occasions, the exact number being not now known to peti-  
4 tioner. On each such occasion petitioner was released pending  
5 trial, either on bail or on his own recognizance, and on each such  
6 occasion, without exception, he appeared at all proceedings sub-  
7 sequent to his arrest and his bail, where such was posted, was  
8 ultimately exonerated. Petitioner was a defendant in the case of  
9 People v. Daugherty and others, a criminal proceeding in the courts  
10 of the State of California arising out of picketing at the plant  
11 of the U. S. Motors Company in the City of Los Angeles in or about  
12 the year 1946; in connection therewith petitioner duly appeared at  
13 all of the proceedings therein, including the extended trial last-  
14 ing for approximately forty-six trial days, and fully executed the  
15 sentence imposed.

16 (g) Petitioner's mother, now eighty-two years of age, is a  
17 resident of a Catholic home for the aged, where petitioner regu-  
18 larly visits her. Petitioner contributes to her maintenance there  
19 from \$10.00 to \$30.00 per month.

20 (h) Petitioner throughout the afternoon and evening of July  
21 25, 1951 was followed by automobiles carrying persons whom peti-  
22 tioner believed to be agents of the Federal Bureau of Investigation.  
23 On the basis of newspaper reports quoting the Attorney General of  
24 the United States and the Director of the FBI from time to time  
25 since the decision of the Supreme Court of the United States in  
26 Dennis, et al v. United States on June 4, 1951, as intended to  
27 arrest and prosecute many persons under the said Smith Act, peti-  
28 tioner anticipated his arrest thereunder but made no effort and  
29 took no steps of any kind to avoid the same.

30 (i) Petitioner has been continuously under the care of  
31 Murray Abowitz, M. D., 6333 Wilshire Boulevard, Los Angeles, Cali-  
32 fornia since 1944. In his affidavit dated August 28, 1951 filed

1 in said case No. 21833 CD Dr. Abowitz states and describes the  
2 condition of petitioner as follows:

3 "He has been suffering from multiple glandular de-  
4 ficiency and hypertensive heart disease. The glandu-  
5 lar deficiencies consist chiefly of hypopituitarism,  
6 hypothyroidism, hypogonadism, diabetes insipidus-like  
7 syndrome and extreme obesity. Before treatment his  
8 symptoms included:

9 "1. obesity: weight about 335 pounds

10 "2. high blood pressure: 190/120 in 1944  
11 and after omitting all therapy for several  
12 months 225/155 in February 1951.

13 "3. lethargy, sluggishness, shortness of  
14 breath, drowsiness, excessive sleep,  
15 less than average perspiration, pre-  
16 ference for extremely hot weather

17 "4. increased intake of fluid, up to 7  
18 quarts daily

19 "5. pitting edema of both lower extremities.

20 "Under hormonal therapy consisting of pituitary hormone,  
21 thyroid and testosterone all the above symptoms improved  
22 promptly and markedly. There was a weight loss of 120  
23 pounds (lowest weight was 216 in 1945.) The blood  
24 pressure dropped to as low as 130/80. General feeling  
25 of well-being, good physical energy, mental alertness,  
26 increased perspiration, normal sleep habits resulted  
27 promptly under treatment. The increased fluid intake  
28 disappeared and the edema subsided.

29 "Xray examination of the sella tursica (location of  
30 the pituitary gland) in 1944 showed it to be small  
31 and the clinoid processes approximated and bridged.

32 "In addition to the multiglandular deficiencies, Mr.



1. Connelly suffers from essential hypertension, appar-  
2. ently secondary to the glandular deficiencies and the  
3. obesity. When his weight increases and when therapy  
4. is omitted the blood pressure rises as high as 225/155  
5. (in February 1951.) Under proper hormonal and dietary  
6. control it ranges between 130 and 160 systolic, and  
7. 80 to 100 diastolic. The electrocardiograms have shown  
8. increasing left axis deviation and left ventricular  
9. strain. Xrays of the chest in 1950 and 1951 have shown  
10. enlargement of the heart. There have been episodes of  
11. cardiac arrhythmia (frequent extrasystoles) during the  
12. last 7 years resulting from either too much thyroid  
13. hormone or excessive smoking. These episodes of  
14. arrhythmia have been controlled by reducing the thyroid  
15. dosage and diminishing the use of tobacco.

16. "When Mr. Connelly was last under my care the regime  
17. of therapy was as follows:

18. "1. APL (pituitary hormone) (500 units per  
19. c.c.) 1 c.c. 3 times a week by injection

20. "2. Testosterone (male sex Hormone) 25 mgm  
21. twice weekly by injection.

22. "3. thyroid grains 3 daily orally

23. "4. Dexedrine Sulphate 5 mgm 3 times daily  
24. (appetite depressant)

25. "5. Ammonium chloride grains 7-1/2 3 times  
26. daily (diuretic)

27. "6. Reducing diet: high protein, low fat  
28. and carbohydrate; between 1000 and 1800 calor-  
29. ies daily depending on amount of physical  
30. activity; low salt intake.

31. "The most important factor in this patient's medical  
32. care is a low carbohydrate, high protein diet. Careful

1 and frequent medical observation of this patient's  
2 blood pressure and fast heart are also essential.  
3 A moderately active regimen of exercises with the  
4 avoidance of excessive strain is important. Un-  
5 usual and especially emotional and mental strain  
6 which, of course, tend to elevate his blood pres-  
7 sure which is already high should be avoided."

8 XVII

9 Petitioner hereby states and represents to this Court that he  
10 intends in good faith to remain and that he will remain within the  
11 jurisdiction of this Court at all times throughout the prosecution  
12 of the proceedings under the indictment and that he does not intend  
13 to and will not at any time during such proceedings leave the juris-  
14 diction of this Court without the approval of the Court. Petitioner  
15 believes that he is not guilty of the offense charged in the indict-  
16 ment and he intends to vigorously prosecute his defense. Petitioner  
17 believes that upon the trial of this indictment herein, he will be  
18 entitled to a verdict of not guilty and that a conviction upon the  
19 allegations thereof would deprive him of liberties secured to him  
20 by the Constitution of the United States.

21 XVIII

22 In order to properly prepare petitioner's defense with the aid,  
23 of counsel, it is vital that petitioner be released on reasonable  
24 bail. An order was entered by the aforesaid Judge William C. Mathes  
25 on August 31, 1951 directing the conditions under which petitioner  
26 and the co-defendants could prepare for trial. A copy of the afore-  
27 said Order is annexed hereto and marked Exhibit "C". The provisions  
28 made in the said Order for the conditions under which the petitioner  
29 and the co-defendants may prepare for trial remain inadequate, and  
30 under the circumstances hereinafter set forth will place onerous  
31 burdens upon the petitioner in the preparation of the defense to  
32 the charges contained in the indictment. The petitioner avers that



1 unless petitioner is released on reasonable bail, petitioner will  
2 be deprived of a fair trial without due process of law.

3 XIX

4 Under the aforesaid Order the petitioner is permitted to work  
5 with counsel on the preparation of the case on Mondays through  
6 Fridays only between the hours of 9 A.M. and 5 P.M. These limita-  
7 tions upon the hours of work disregard the scope and nature of the  
8 preparation which must be made in the case herein and which, if a  
9 proper defense is to be made, requires fulltime preparation, es-  
10 pecially in the evenings and on weekends. In addition, the peti-  
11 tioner must prepare, under the said Order, with co-defendants and  
12 counsel in a room in the Federal Building or at such place as the  
13 respondent shall select; while working in said designated room,  
14 petitioner is required to bring in meals at petitioner's own ex-  
15 pense; bring in books, documents and other materials without cen-  
16 sorship as to content only; and allowed to consult with witnesses  
17 provided that each witness shall furnish to respondent his name,  
18 address, crime record, if any, and general occupation.

9 XX.

10 This indictment charges that as a part of the alleged con-  
11 spiracy defendants, the co-conspirators (all but one of whom has  
12 suffered a final conviction under the conspiracy provisions of the  
13 Smith Act. (Dennis v. United States, 95 L. ed. Adv. Op. 865), and  
14 divers unknown persons, would write and cause to be written articles  
15 and directives in publications of the Communist Party of the United  
16 States of America, including but not limited to "Political Affairs",  
17 "Daily Peoples World", "Daily Worker", and "The Worker".

18 Petitioner is informed and believes and therefore avers that  
19 the prosecution of the instant case will probably substantially  
20 follow the pattern cut by Dennis v. United States, supra, in which  
21 six months were consumed in taking evidence resulting in a record  
22 of 16,000 pages. Books, pamphlets, newspapers and magazines were

1 received in evidence, including, as shown in the dissenting opinion  
2 of Mr. Justice Douglas (P.913) Foundations of Leninism by Stalin  
3 (1924), the Communist Manifesto by Marx and Engels (1848), State  
4 and Revolution by Lenin (1917), History of the Communist Party of  
5 the Soviet Union (b) 1939. Problems of Leninism by Stalin, Strategy  
6 and Tactics of World Communism and Program of the Communist International.  
7 national.

8 In his separate concurring opinion Mr. Justice Jackson supports  
9 his view by citing as sources, among others, the following  
10 books: Ivo Duchacek, The Strategy of Communist Infiltration;  
11 Czechoslovakia, 1944-1948, World Politics, vo. 2, No. 3 (April  
12 1950), pp 345-372; and The February Coup in Czechoslovakia, ibid,  
13 July 1950, 511-532; see also Kertesz, The Methods of Communist Conquest;  
14 Hungary, 1944-1947, ibid, October 1950, pp 20-54; Lasswell,  
15 The Strategy of Soviet Propaganda, 24 Acad Pol Sci Proc 214, 221.

16 On information and belief, petitioner avers that literally  
17 hundreds of books have been written on the subject of the principles  
18 of Marxism-Leninism which this indictment charges defendants  
19 indoctrinated recruits and members of the Communist Party.

20 With respect to said Daily Peoples World, petitioner has been  
21 employed as its Los Angeles editor since about two years ago. For  
22 the last year this newspaper was published Monday through Friday  
23 of each week and prior to that time and for a number of years prior  
24 to April 1, 1945, the date alleged by this indictment as the starting  
25 point of the conspiracy charged, said newspaper published Monday  
26 day through Saturday of each week. In other words, during the time  
27 petitioner has been employed by said newspaper about 520 issues  
28 have been published and during the period from April 1, 1945 to  
29 the beginning of said two year period about 1250 issues, a total  
30 for the entire period from April 1, 1945 of some 1770 issues of  
31 not less than 4 pages and as many as 8 to 10 pages of conventional  
32 size or tabloid size newspaper.



For the purpose of adequately preparing for their defense herein it will be necessary for the defendants including petitioner to examine and study each of the exhibits offered by the Government in the case of United States v. Dennis and each of the exhibits offered by the defendants in said case, for the reason that the indictment herein charges that each of the defendants herein are parties to the same alleged conspiracy which was the basis of the charge against the defendants in the said case of United States v. Dennis.

In the said case of United States v. Dennis the Government offered at the trial 234 exhibits of which number approximately 200 were admitted in evidence. The said exhibits included portions of books such as the "English Version, Seventh World Congress, Communist International, Volume 15" with more than 850 pages, excerpts from numerous editions of the Daily Worker and excerpts from numerous other pamphlets and documents published over a period of many years. For example, the first twenty Government exhibits out of the total of 234 offered were:

1. Photostatic copy of an article from "Daily Worker" of October 2, 1935.

2. Pages 861 and 862 of book entitled "English Version. Seventh World Congress. Communist International 8/8/35"-- Vol. 15.

3. Excerpts from booklet entitled "Program of the Communist International." (These excerpts ran from page 14473 to page 14520 in the Joint Appendix of the said case of United States v. Dennis.)

4. Excerpts from Manual entitled "Manual of Organization" by J. Peters. (These excerpts ran from page 14521 to 14536 in the said Joint Appendix.)

5. Excerpts from Manual entitled "Why Communism?" by

1 M. J. Olgin. (These excerpts ran from page 14537 to 14555  
2 in the said Joint Appendix.)

3 6. Book entitled "Foundations of Leninism," by Joseph  
4 Stalin. (The entire book consisting of 123 printed pages  
5 was admitted in evidence.)

6 7. Article "Strengthen National Unity," by Earl Browder,  
7 from "The Worker," dated 1/16/44, Mag. Sec., pages 7-12.

8 8. Booklet entitled "The Communist," dated Feb., 1944.

9 8-A. Pages 107 and 108 of booklet entitled "The Commu-  
10 nist" of Feb., 1944.

11 9. Pamphlet entitled "The Path to Peace, Progress and  
12 Prosperity" -- May 20-22, 1944.

13 10. Page 10 of New York Times - 5/7/45.

14 11. Page 1 of New York World Telegram - 5/22/45.

15 12. Photostat of "Daily Worker" of 5/24/45.

16 12-A. Article, "On the Dissolution of the Communist  
17 Party of the United States of America," by Jacques Duclos,  
18 from pages 7, 8 and 9 of "Daily Worker" of 5/24/45. (This  
19 article ran from page 14557 to 14580 in the said Joint  
20 Appendix.)

21 13. Photostat of "Daily Worker" of June 4, 1945.

22 13-A. Article "The Present Situation and Next Tasks".  
23 Resolution of National Board Communist Political Asso-  
24 ciation adopted June 2, 1945, from pages 4 and 5 of  
25 "Daily Worker" of June 4, 1945. (This article ran from  
26 page 14581 to page 14594 in the said Joint Appendix.)

27 14. Photostat of "Daily Worker" of June 10, 1945.

28 14-A. Article "On Revisionism in the C.P.A." from  
29 pages 7 and 8 of "Daily Worker" of June 10, 1945. (This  
30 article ran from page 14594 to 14601 in the said Joint  
31 Appendix.)

32 15. Photostat of "Daily Worker" of June 16, 1945.



1 15-A. Article "Thompson Discusses Browder's Program"  
2 by Bob Thompson, page 7 of "Daily Worker" of June 16, 1945.

3 16. A letter.

4 17. Booklet entitled "Political Affairs," dated July,  
5 1945, and excerpts from said booklet as indicated. (These  
6 excerpts ran from page 14608 to page 14652 in the said  
7 Joint Appendix.)

8 18. Photostat of "Daily Worker" of June 22, 1945.

9 18-A. Article "CPA National Committee backs Resolu-  
10 tion, Calls Convention," page 2 of "Daily Worker" of  
11 June 22, 1945.

12 19. Photostat of "Daily Worker" of 6/23/45.

13 19-A. Article "Call CPA Convention July 26" from page  
14 3 of "Daily Worker" of 6/23/45.

15 20. Photostat of "The Worker" of 6/24/45.

16 20-A. Article "Says Leadership Can't Shirk Responsi-  
17 bilities for Errors," by John Williamson, from page 8 of  
18 "The Worker" of 6/24/45.

19 The defense in that case offered 346 exhibits of which 93 were  
20 admitted in evidence. The said exhibits were similar in source and  
21 length to those offered by the prosecution.

22 XXII

23 In order to adequately prepare for the defense it will be  
24 necessary for the defendants including petitioner to examine each  
25 of the aforesaid exhibits in their entirety in order to ascertain  
26 whether portions of the exhibits not offered or received in evi-  
27 dence may be used to rebut the inferences which the Government  
28 will ask the jury to draw from the portions of the exhibits which  
29 it offers. In addition, it will be necessary for the defendants  
30 to examine numerous other books, pamphlets and newspapers in order  
31 to determine what related material is available to them for the  
32 purposes mentioned above.

XXIII

Many of the books, documents and pamphlets are, so far as defendants know, not readily available at any one place and it will be necessary for defendants to examine the bibliographies of various libraries such as the Los Angeles Public Library, the University of California Library at Los Angeles, the Huntington Library, and others, and to visit various book stores to determine what books and pamphlets they have available, to examine their own files, records and libraries, as well as to seek to find other persons who may have some of said books, pamphlets or documents available.

XXIV

The defendants including petitioner have been advised by their counsel that it will be impossible for their counsel to undertake the responsibility for this work and that if preparation is to be made with respect to the various documents which may be offered on behalf of the Government and which should be offered on behalf of the defense, it will be necessary for the defendants themselves to secure such documents to become thoroughly familiar with them, to analyze them and to present their analysis to their said counsel.

XXV

In addition to the books, records and documents offered by both sides in the case of United States v. Dennis, it will be necessary for the defendants including petitioner to examine numerous publications, pamphlets and similar documents which were issued on the West Coast which it will be necessary for the defendants to secure from the various sources enumerated above in order to prepare to meet evidence which the Government may offer with respect to the ideas and beliefs and the speech and writings of these defendants, and in order to present their own defense with respect to such ideas, beliefs, speech and writings.



XXVI

It will be absolutely impossible for the defendants to prepare their defense unless they are in a position to visit their various homes and offices, the libraries mentioned above, book stores, the homes of persons who may have material available, and other places where they may discover that some of the material needed is available.

XXVII

In addition, they will require the opportunity frequently to consult privately and confidentially with their counsel, both individually and in groups. They will also require assistance from research persons, secretaries and other persons with whom they must consult frequently and regularly in order to undertake even the beginnings of the vast job of preparation which confronts them.

XXVIII

The tremendous task of preparation would present many problems even if the defendants were free on bail. The indictment in this case being based on the alleged ideas and beliefs allegedly held by the defendants as well as the ideas and beliefs allegedly contained in books, documents, newspapers and other writings presents a unique problem from the standpoint of preparation for trial. There is involved in this case the fundamental principles of Marxism-Leninism, a world view of nature and society first developed by Marx and Engels over 100 years ago and having its origin in much of the prior thought of mankind especially British classical political economy, French materialism and German classical idealism, especially that of Hegel. Marxism was added to and extended and further developed over the period of a century on the basis of new conditions and new experiences throughout the world. Leninism is a further development of Marxism in the period referred to by Lenin as the epoch of imperialism.

Petitioner is advised by Counsel that under the Constitution petitioner is entitled to bail as a matter of right and that the requirement of excessive bail is a denial of bail. Your petitioner is entitled to freely prepare a defense, to consult with counsel and witnesses, and all of this is denied by the unlawful confinement herein.

## XXX

In view of the facts and circumstances hereinabove set forth, petitioner respectfully submits to the Court that petitioner is at the present time unlawfully imprisoned and restrained of petitioner's liberty; that petitioner's imprisonment and detention are illegal, arbitrary, and a denial of rights secured to petitioner by the Constitution of the United States and that bail in the sum of \$50,000 is so excessive and so unreasonable as to constitute an absolute denial of petitioner's right to bail and petitioner's right as a matter of due process of law to properly defend petitioner against the charges which have been brought against petitioner.

## XXXI

That no previous application for a writ of habeas corpus has been made in this matter to any other court except as hereinabove alleged.

WHEREFORE, petitioner prays that a writ of habeas corpus may issue directed to James J. Boyle, United States Marshal, Southern District of California, Central Division, and to any other officers having custody of the body of your petitioner, commanding him to have the body of your petitioner produced before this Court at a time and place to be specified, to do and receive what shall then and there be considered concerning your petitioner together with time and cause of petitioner's detention and said writ; and that this honorable Court order and direct that petitioner be released from such custody forthwith upon such reasonable bail as may be



1. determined in the premises.

2 DATED: This 4th day of September, 1951.

3  
4 15/Philip Marshall Counsel

5 (received September 4, 1951)  
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EXHIBIT A

The Pending Register of Federal Criminal Actions in the Central District was examined. Approximately 186 cases were bail cases. The only cases where bail was fixed at \$10,000 or more is the annexed list. Many of these annexed indictments contained more than one count.

<u>CHARGE</u>	<u>PENALTY</u>	<u>BAIL</u>
Mail fraud and conspiracy	5 years - \$10,000 (5 counts)	\$25,000
Failure to self-deport)	10 years	25,000
Failure to self-deport)	10 years	15,000
Concealing assets in bank	5 years - \$5,000	15,000
Transmission of threatening letters	5 years - \$1,000	15,000
Transmission of threatening letters	5 years - \$1,000	10,000
Perjury	5 years - \$2,000	10,000
Evasion of Income Tax	5 years - \$10,000	10,000
Firearms in Interstate Commerce	5 years - \$2,000	10,000
Robbery of United States Mail	10 years	10,000
Conspiracy to defraud Govt.	10 years - \$10,000	10,000 reduced to 5,000
Concealing assets	5 years - \$5,000	10,000

Smith Act Prosecutions in New York

(1) Dennis v. U. S. - 12 defendants

\$5,000 after indictment. After conviction - \$20,000 each - fixed by Circuit Court. Bail continued by Jackson, J., pending applications for writ (Williamson v. U. S., 95 L.Ed. Adv. 10)

EXHIBIT A



1 (2) U. S. v. Flynn, et al

2 Flynn, Perry, Gerson, Bachrach, Weinstock, Lannon,  
3 Jerome, Weinstone, Charney, Begun, Johnson.  
4 \$10,000 - Increase to \$50,000 sought, denied.  
5 Jones, Gannet, and Bittelman - \$20,000 - In-  
6 crease to \$75,000 sought, denied. Mindel -  
7 \$5,000 - Increase to \$50,000 sought, denied.  
8 Amter - \$1,000 - no increase sought.

9 (3) Hawaii-U.S. v. Hall, et al

10 Bail fixed by Commissioner for 7 defendants at  
11 \$75,000. Reduced by Judge Delbert E. Metzger  
12 to \$5,000. After indictment, bail fixed at  
13 \$7,500.

14 (4) Pittsburgh-West Virginia-U.S. v. Nelson, et al

15 Bail fixed by Commissioner in sum of \$100,000.  
16 Reduced by Judge William Kirkpatrick in Phila-  
17 delphia to \$20,000.

18 (5) Baltimore-U.S. v. Frankfeld

19 Bail fixed by Commissioner at \$75,000. Reduced  
20 for one defendant to \$5,000; second defendant  
21 to \$17,500; third defendant to \$10,000.

22 Terminal Island Four

23 (Carlson v. U.S.)

24 Charge - Alien Communists and advocates of force  
25 and violence. Pending deportation proceedings,  
26 bail denied by Attorney General, District Court  
27 and Circuit Court. On application for writ of  
28 certiorari, bail in sum of \$5,000 unanimously  
29 fixed by United States Supreme Court sitting  
30 as entire body.

32 EXHIBIT A

EXHIBIT B

ANALYSIS

Of the approximately 186 cases examined July 30, 1951 (total in the Pending Register), about 175 fixed bail at less than \$10,000. The following is a tabulation:

<u>Bail</u>	<u>No. of Cases</u>
\$7,500	2
5,000	20
3,500	1
3,000	6
2,500	18
2,000	14
1,500	18
1,000	47
500	22
250	1
Own Recognizance	22

The cases where the penalty was 5 years and up totalled approximately 159 in number, or about 80% of the total number of cases. The average bail in all of the cases where the penalty was 5 years and up amounts to less than \$3,000.



1 The following are the cases in the Pending Register of Criminal  
 2 Actions in Central District where the bail was below \$10,000:

3 CHARGE	PENALTY	COUNTS	BAIL
4 Forgery	10-\$1,000	3	\$ 1,000
5 Passing altered money order	5- 5,000	2	2,000
6 Forging and uttering U. S.			
7 Treasury check	10- 1,000	2	1,000
8 Forging and uttering check	5- 1,000	2	Own Recognizance
9 Forging and uttering check	5- 1,000	2	500
10 Forging and uttering			
11 Government obligation	5- 1,000	2	1,000
12 Harboring and concealing			
13 aliens	5- 1,000	1	1,500
14 Possession and sale of			
15 narcotics	10- 5,000	2	500
16 Illegal wearing uniform,			
17 U.S. Army	6mos 250	1	500
18 Unlawful wearing U.S.			
19 Navy Uniform	6 mos 250	3	500
20 Forging and uttering			
21 Government draft	10- 1,000	2	1,000
22 Unlawful possession of			
23 ration point	1-10,000	1	5,000
24 Forgery, personation and			
25 Conspiracy	10-10,000	4	3,000
26 Forgery, personations and			
27 Conspiracy	10-10,000	4	2,000
28 Conspiracy, possession of			
29 writings and sugar stamps	5-10,000	5	5,000
30 Conspiracy, possession of			
31 writings and sugar stamps	5-10,000	5	Own Recognizance
32	- 4 -		

1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Buying and selling meat			
3	in excess of price			
4	control	5-\$10,000	5	\$ 5,000
5	Concealment of assets			
6	from trustee in			
7	bankruptcy	5- 5,000	3	10,000
8	Attempt to wreck a train	5- 5,000	1	5,000
9	Mailing scurrilous postal			
10	cards	5- 5,000	5	500
11	False claim of citizen-			
12	ship	5 10,000	1	2,500
13	Internal Revenue Code			
14	(Fraudulent income			
15	tax return)	5-10,000	4	
16	Failure to report for			
17	induction and to keep			
18	Board informed of			
19	address	5-10,000	2	2,500
20	Treason	death		No Bail
21	Transport stolen motor			
22	vehicle	5- 5,000	1	5,000
23	False claim of citizen-			
24	ship	5-10,000	1	500
25	Conspiracy and fraud			
26	vs. Government	5-10,000	24	10,000* (on motion reduced to 5,000)
27				
28	Mann Act	5- 5,000	1	1,000
29	Servicemen's Readjustment			
30	Act #44	1- 1,000	4	Own Recogn- zance.
31	Transport stolen motor			
32	vehicle	5- 5,000	1	
	Referred to in Exhibit A			



1. CHARGE	PENALTY	COUNTS	BAIL
2 Juvenile Delinquency			
3 Forgery U.S. Money Order)		1	
4 Mailing obscene letter	10- 5,000	1	\$ 2,500
5 Engage in business of			
6 purchasing spirits for			
7 resale without basic			
8 permit /		2	2,500
9 Transport stolen motor			
10 vehicle	5- 5,000	1	
11 Forging and cashing			
12 Government bonds	10- 1,000	2	\$,500
13 Theft of mail	5- 2,000	1	1,000
14 Forging Government			
15 Obligation	15- 5,000	1	500
16 Bank robbery, transport-			
17 ing interstate stolen			
18 money and flight to			
19 avoid prosecution	25-10,000	3	Held No Bond
20 Forging and uttering			
21 Government check	10- 1,000	2	1,000
22 Transporting stolen motor			
23 vehicle in foreign			
24 commerce	5- 5,000	1	3,000 (reduced to 2,000)
25			
26 Anti-trust conspiracy to			
27 fix, determine, establish			
28 and maintain noncompetitive			
29 prices, etc. of fire			
30 extinguishers	1- 5,000	1	Own Recogni- zance (later 1,000)
31			
32			

<u>1 CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2 Theft of Government			
3 property, forging			
4 and uttering Govern-			
5 ment checks	10- \$ 10,000	4	\$ 2,500
6 Sale and possession of			
7 narcotics	10- 5,000	2	2,500
8 Conspiracy, false state-			
9 ments to Government	5- 10,000	2	3,000
10 Purchase of narcotics,			
11 receiving and trans-			
12 porting narcotics	10- 5,000	2	2,500
13 Forging postal money			
14 order	5- 5,000	4	500
15 False statement in appli-			
16 cation for Survivors			
17 Insurance Benefits	1- 1,000	12	1,000
18 Evasion of Income Tax	5- 10,000	1	1,000
19 Migratory	6 mos 500	1	
20 Embezzlement, abstraction,			
21 misapplication funds			
22 H.O.L.C., and false			
23 entry in book	5- 10,000	24	Own Recogni- zance (later 5,000)
24			
25 Evasion income taxes	5- 10,000	2	1,000 Released Own Recognizance on Motion
26			
27 Evasion income taxes	5- 10,000	1	1,000
28 Misapplication and			
29 Embezzlement of National			
30 bank funds	5- 5,000	6	1,000
31 Evasion income taxes	5- 10,000	2	2,000
32			



1 CHARGE	PENALTY	COUNTS	BAIL
2 Evasion income taxes	5- \$10,000	2	Own Recongi- zance
3 Failure to file in- come tax return	1- 10,000	1	\$ 2,500 Released own recognizance
4			
5			
6 Forging and uttering			
7 government checks	10- 1,000	2	1,000
8 Transporting stolen			
9 car	5- 5,000	1	1,000
10 Transmission Inter-			
11 state threatening			
12 communications;			
13 mailing threatening			
14 letters	20- 5,000	4	15,000*
15 Sale of narcotics	10- 5,000	2	1,500
16 False statement in			
17 application for			
18 Federal Housing			
19 Loan		4	400
20 Conspiracy to defraud, make			
21 pass, utter and pub-			
22 lish statements re:			
23 FHA Title Loan application	5- 10,000	41	2,000
24 Conspiracy to defraud, make			
25 pass, utter pub-			
26 lish statements re:			
27 FHA Title Loan			
28 Application	5- 10,000	41	1,000
29 Perjury before ICC, making			
30 false statements on oath			
31 before examiner	5- 2,000	1	1,500
32 * Referred to in Exhibit A			

1 CHARGE	PENALTY	COUNTS	BAIL
2 Anti-trust, fixing			
3 prices for fish	1- \$ 5,000	2	\$ 1,000
4 Perjury; false state-			
5 ments to and con-			
6 cealing facts from			
7 Department of Army	5- 2,000	6	Own Recogni-
8 Official asking and			zance
9 accepting bribe	3-	14	1,000
10 Embezzlement and theft			
11 of U.S. property			
12 False documents			
13 Filed with Department			
14 of Agriculture	5- 10,000	28	Own Recogni-
15			zance then
16 Contempt, failure to			3,5000
17 appear before Grand			
18 Jury		1	1,000
19 Forging U.S.			
20 Treasury Checks	10- 1,000	8	1,000
21 Concealment of narcotics	10- 5,000	1	2,000
22 Perjury committed before			
23 Federal Grand Jury	5- 2,000	1	5,000
24 Mail fraud and Conspiracy	5- 10,000	5	25,000*
25 Mail fraud and Conspiracy	5- 10,000	5	500
26			(vacated and
27			released on
28 Accessory to bank robbery			own recogni-
29 and receiving proceeds			zance)
30 thereof	12- 5,000	2	5,000
31 *Referred to in Exhibit A			
32			



1. CHARGE	PENALTY	COUNTS	BAIL
2 Conspiracy to commit			
3 offenses in vio-			
4 lation of Title			
5 47, Sec. 605;			
6 (Unauthorized			
7 publication or use			
8 of communications)	5-\$10,000	1	\$ 7,500
9 Conspiracy to commit			
10 offenses in vio-			
11 lation of Title 47;			
12 Sec. 605; (Unauth-			
13 orized publication			
14 or use of communi-			
15 cations)	5- 10,000	1	1,000
16 Evasion of income tax	5- 10,000	3	1,500
17 Evasion of income tax	5- 10,000	2	1,500
18 Transport interstate			
19 of stolen auto	5- 5,000	1	3,000
20 Evasion of income tax	5- 10,000	1	1,000
21 Transport forged			
22 security			
23 interstate	10- 10,000	1	2,000
24 Mailing obscene			
25 matter	10- 5,000	13	2,000
26 Illegal impor-			
27 tation and			
28 concealment of			
29 narcotics	10- 5,000	2	2,500
30 Embezzlement and			
31 theft of U.S property	10- 10,000	20	Own Recogni-
32			zance

<u>1 CHARGE</u>	<u>PENALTY</u>	<u>COUNT</u>	<u>BAIL</u>
2 Concealing assets and con-			
3 cealing records in con-			
4 tempt of Bankruptcy;			
5 Conspiracy; mail fraud	5- \$ 10,000	6	\$ 5,000
6 Misbranded device and drug			
7 in interstate commerce	1- 1,000	1	own recogni- zance
8 False claim of citizenship	5- 10,000	2	7,500
9 Evasion income tax	5- 10,000	2	1,500
10 Transport stolen motor vehicle	5- 5,000	1	3,000
11 Ship misbranded drug in			
12 interstate commerce	1- 1,000	2	Own recogni- zance
13 Mail fraud	5- 1,000	17	2,500
14 Robbery from mails	5- 10,000	1	10,000*
15 Evasion income tax	5- 10,000	4	1,500
16 Evasion income tax	5- 10,000	2	1,500
17 Evasion income tax	5- 10,000	2	1,500
18 Evasion income tax	5- 10,000	4	1,500
19 Evasion income tax	5- 10,000	4	1,500
20 Evasion income tax	5- 10,000	4	1,500
21 Conspiracy to commit offens-			
22 es against U.S.; conspiracy			
23 to cause to be made false			
24 papers re: Veterans Eligi-			
25 bility for Home Loans under			
26 Servicemen's Readj. Act, 1944	5- 10,000	9	1,000
27 Evasion income tax	5- 10,000	4	1,500
28 Failure to register firearm;			
29 Interstate transport. unreg-			
30 istered Firearm	5- 2,000	2	10,000*
31 Interstate transport motor			
32 vehicle stolen	5- 5,000	1	2,000

\*Referred to in Exhibit A



1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Illegal sale of			
3	narcotics	5 - \$2,000	3	2,500
4	IRC - evasion of			
5	income tax;			
6	Making false statements			
7	(Mickey Cohen case)	5 - 10,000	5	10,000* (reduced to 5,000)
8				
9	IRC - evasion of			
10	income tax;			
11	Making false			
12	statements (Mickey			
13	Cohen case - wife)	5 - 10,000	1	2,500
14	Theft of mail,			
15	obstruction of			
16	correspondence	5 - 2,000	1	1,000
17	Transport stolen car	5 - 5,000	1	1,000
18	Theft of mail by			
19	postal employee	5 - 2,000	1	1,000
20	Failure to report for			
21	induction	5 - 10,000	1	5,000
22	Perjury committed before			
23	Grand Jury	5 - 2,000	2	10,000*
24	Obstruction of			
25	correspondence	5 - 500	1	2,000
26	Transport stolen auto	5 - 5,000	1	5,000
27	Failure to report for			
28	induction	5 - 10,000	1	2,500
29	Failure to file			
30	Questionnaire	5 - 1,000	2	2,500
31	* Referred to in			
32	Exhibit A			

EXHIBIT "B"

1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Soliciting and attempt-			
3	ing to sell auto in			
4	excess of maximum			
5	ceiling price		4	500.
6	Concealment of assets			
7	and records in bank-			
8	ruptcy; conspiracy,			
9	mail fraud	5 - \$10,000	3	Own Recognizance
10	Failed and refused to			
11	be inducted	5 - 10,000	1	2,500
12	Illegal possession of			
13	Marijuana	5 - 2,000	1	1,500
14	Conspiracy to corruptly			
15	endeavor to influence			
16	a witness and solici-			
17	tation of a bribe by			
18	such witness	5 - 10,000	1	Own Recognizance
19	Failure to register			
20	firearm	5 - 2,000	1	1,000
21	Failure to register			
22	firearm	5 - 2,000	1	<u>1,000</u>
23	Servicemen's Readj,			
24	Act 1944	1 - 1,000	3	500
25	Transport Stolen Auto	5 - 5,000	1	1,000
26	Failure to report for			
27	induction	5 - 10,000	1	5,000 (reduced to 1,000)
28				
29	Theft of mail by			
30	postal employee	5 - 2,000	4	1,000
31	Theft of mail by			
32	postal employee	5 - 2,000	3	1,500

EXHIBIT "B".



<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
Transport stolen car	5 - \$5,000	1	\$2,000
Transport stolen car	5 - 5,000	1	5,000
Transport stolen car	5 - 5,000	1	1,000
Breaking into building used in part as Post Office	5 - 1,000	1	5,000
Mail fraud	5 - 1,000	11	5,000
Conspiracy; embezzle- ment funds National Bank	5 - 10,000	4	1,000
Theft from interstate shipment and re- ceiving stolen goods.	10 - 5,000	12	5,000
Forging of postal saving certificates and uttering same	5 - 5,000	8	500
Failure to report for induction	5 - 10,000	1	1,500
Failure to report for induction	5 - 10,000	1	1,000
Theft of mail	5 - 2,000	1	1,000
Mail threatening letter	20 - 5,000	1	10,000*
Illegal possession of Marijuana	5 - 2,000	1	1,000
Fair Labor Standards Act	6 mos-10,000	14	Own Recognizance
Fair Labor Standards Act	6 mos-10,000	13	Own Recognizance
Fair Labor Standards Act	6 mos-10,000	10	Own Recognizance
Federal Food, Drug and Cosmetics Act (Adul- terated food in Int.Com.)	1 - 1,000	18	Own Recognizance

\* Referred to  
in Exhibit A

EXHIBIT "B"

1	<u>CHARGE</u>	<u>PENALTY.</u>	<u>COUNTS</u>	<u>BAIL.</u>
2	Federal Food, Drug and			
3	Cosmetics Act (Adul-			
4	terated food in in-			
5	terstate commerce)	1 - 1,000	4	Own Recognizanc
6	Forging Government Check	10 - 1,000	2	5,000
7	Obstruction of mail	5 - 2,000	2	5,000
8	Theft from interstate			
9	shipment	10 - 5,000	3	1,000
10	Theft on Government			
11	Reservation	5 - 5,000	2	500
12	Illegal wearing			
13	uniforms	6 - 250	1	1,000
14	Infringement of copy-			
15	righted movies	1 - 1,000	4	Own Recognizanc
16	False claim for unem-			
17	ployment insurance			
18	benefits from R.R.			
19	retirement board	1 - 10,000	4	Own Recognizanc
20	Transport stolen fire-			
21	arm	5 - 2,000	1	2,000
22	Failure to be inducted	5 - 10,000	1	1,000
23	Failure to be inducted	5 - 10,000	1	3,000
24	Forging and uttering			
25	Government check	10 - 1,000	2	1,000
26	Theft of mail	5 - 2,000	3	1,000
27	Theft of ma il by			
28	postal employee	5 - 2,000	2	500
29	Theft of mail by			
30	postal employee	5 - 2,000	2	500
31	Theft of mail by			
32	postal employee	5 - 2,000	2	1,000

EXHIBIT "B"



1	CHARGE	PENALTY	COUNTS	BAIL
2	Failure to be inducted	5 - 10,000	1	1,000
3	Embezzlement of funds			
4	National Bank	5 - 5,000	4	1,000
5	Forging and uttering			
6	forged Postal			
7	Money Order	5 - 5,000	2	250
8	Forging Government Check	10 - 1,000	3	1,500
9	Failure to register			
10	firearm	5 - 2,000	1	1,000
11	Causing false claim to			
12	be made to Veterans'			
13	Administration re:			
14	Appraisal	1 - 1,000	1	Own recognizance
15	False claim for unemploy-			
16	ment insurance benefits			
17	R.R. retirement board	1 - 10,000	2	Own recognizance then 500
18				
19	False claim for unemploy-			
20	ment insurance R.R. retire-			
21	ment board	1 - 10,000	4	Own Recognizance then 500
22				
23	Juvenile delinquency			
24	transfer of marijuana		1	500
25	Illegal sale of marijuana	5 - 2,000	2	2,500
26	Forging and uttering			
27	Government check	10 - 1,000	2	1,000
28	Embezzlement of funds			
29	of National Bank	5 - 500	4	Own recognizance
30				
31				
32				

1	<u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
2	Interstate transport			
3	falsely made			
4	security	10 - \$10,000	1	2,500
5	False claim unemploy-			
6	ment insurance bene-			
7	fits R.R. retirement			
8	board	1 - 10,000	4	Own Recognizance then 500
9	Impersonation as			
10	Federal Officer	3 - 1,000	4	5,000
11	Theft of mail by			
12	postal employee	5 - 2,000	2	500
13	Illegal wearing Marine.			
14	Corps uniform	6 mos. - 500	1	500
15	False claim of citi-			
16	zenship	3 - 1,000	1	1,000
17	Theft of mail by			
18	Postal employee	5 - 2,000	2	500
19	Illegal sale and			
20	Possession of			
21	Marijuana	5 - 2,000	2	2,000
22	Theft of mail by			
23	Postal employee	5 - 2,000	2	3,000
24	Theft of Government			
25	property	10 - 10,000	4	1,000
26	Illegal possession			
27	of Marijuana	5 - 2,000	1	1,000
28	Conspiracy to de-			
29	fraud and commit			
30	offense - kick -			
31	backs on sub-			
32	contracts	2 - 10,000	4	2,500

EXHIBIT "B"



EXHIBIT "C"

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

UNITED STATES OF AMERICA,

No. 21883-Crim.

Plaintiff,

vs.

O R D E R

WILLIAM SCHNEIDERMAN, et al.,

Defendants.

Pursuant to stipulation of the parties hereto, the United States Marshal IS HEREBY ORDERED AND DIRECTED to take the steps necessary to permit each and all of the defendants in the above-entitled matter to have the following conditions for preparation for trial:

1. Upon one days notice, or upon being furnished a schedule in advance, the said defendants shall be permitted to work with their attorneys on the preparation of their case at any and all times between the hours of 9:00 a.m. to 5:00 p.m., Mondays through Fridays, inclusive, in Room 243B of the Federal Building in the city of Los Angeles, or at such place as the United States Marshall shall select. An attorney for said defendants need not be present at all times during the time that the defendants are so working on the preparation of their case for trial.

2. During the time that the defendants are so working

1 they may have brought to them their meals at their own expense.

2 3. The defendants shall be allowed to bring into said  
3 room and to maintain there such books, documents, pamphlets,  
4 and similar written or printed material as they shall desire,  
5 without censorship of any kind as to content, and the defendants  
6 shall be permitted to make and keep in said room and to deliver  
7 to their attorneys such notes, memoranda and documents as they  
8 desire, without censorship of any kind as to content. In  
9 addition, the defendants shall be permitted to bring to said  
10 room and keep there such office equipment as typewriters, and  
11 such office supplies as paper, carbon paper, pencils, pens, ink,  
12 etc.; provided, however, that none of the foregoing is intended  
13 to deprive the United States Marshal of the right to see to it  
14 that nothing other than materials of the kind permitted by this  
15 order are brought in.

16 4. For the purpose of dealing with problems relating  
17 to their defense, the defendants shall be allowed, in the  
18 presence of an attorney, to visit and confer with such persons  
19 as the attorney shall designate; provided, however, that such  
20 person shall furnish to the United States Marshal his name,  
21 address, criminal record if any, and general occupation.

22  
23 DATED this 31st day of August, 1951.

24  
25  
26  
27 United States District Judge

28  
29 PRESENTED BY:

30  
31 WALTER S. BINNS  
32 Chief Assistant U. S. Attorney



1 MARGOLIS and McTERNAN  
112 West Ninth Street  
2 Los Angeles 15, California  
VAndike 7153  
3 and  
4 DANIEL G. MARSHALL  
458 South Spring Street  
Los Angeles 13, California  
5 TRinity 6011

6 Attorneys for Petitioner

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 CENTRAL DIVISION

11 PHILIP MARSHALL CONNELLY,

12 Petitioner,

13 vs.

14 JAMES J. BOYLE, United States Marshal,

15 Respondent.

No. 13438

ORDER TO SHOW CAUSE WHY  
WRIT OF HABEAS CORPUS  
SHOULD NOT ISSUE

16 Upon reading the verified petition of the petitioner on  
17 file herein,

18 IT IS HEREBY ORDERED that James J. Boyle, United States Marshal  
19 for the Southern District of California appear before the above en-  
20 titled Court in the courtroom of the Honorable  
21 at the United States Post Office and Court House Building, 312 North  
22 Spring Street, Los Angeles, California, on the 6th day of September,  
23 1951, at 2 P.M. of said day, then and there to show cause if any he  
24 may have why he should not release from his custody or the custody of  
25 such officers or agents as may have the same for and on his behalf,  
26 the body of Philip Marshall Connelly, petitioner herein, upon such  
27 reasonable bail as may be determined by this Court.

28 Good cause being shown therefor, it is hereby ordered that the  
29 Order and the said petition may be served upon the respondent herein  
30 on or before September 4, 1951 at 2 P.M. of said day.

31 DATED: This 4th day of September, 1951.

32 /s/ Ben Harrison

JUDGE OF THE U.S. DISTRICT COURT

1 ERNEST A. TOLIN  
United States Attorney  
2 RAY H. KINNISON  
Assistant U. S. Attorney  
3 Chief of Criminal Division  
4 600 Federal Building  
Los Angeles 12, California  
5 Telephone: MADison 7411  
6 Attorneys for Respondent

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 IN, AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

10  
11 **PHILIP MARSHALL CONNELLY,**

12 Petitioner,

13 vs.

14 JAMES J. BOYLE, United  
States Marshal,

15 Respondent.  
16

NO. 17878-M

RETURN TO WRIT OF HABEAS CORPUS

17 I, JAMES J. BOYLE, United States Marshal for the Southern District of  
18 California, respondent herein, on behalf of myself and each and all of my agents  
19 and deputies, respectfully make the following return and answer to this Honorable  
20 Court, to the writ of habeas corpus issued pursuant to the petition for writ of  
21 habeas corpus in the above case:

22 I

23 That the petitioner, Philip Marshall Connelly, is not unlawfully  
24 imprisoned or restrained of his liberty, and his imprisonment and detention  
25 are not illegal, arbitrary or a denial of rights secured to him by the Constitu-  
26 tion of the United States, but said petitioner is in my custody under proper and  
27 lawful authority.

28 II

29 That said petitioner was taken into custody on July 26, 1951, in the  
30 City of Los Angeles, State of California, by Special Agents of the Federa  
31 Bureau of Investigation, upon a warrant issued on July 25, 1951, by Howard V.  
32 Calverley, United States Commissioner for the Southern District of California,



1 pursuant to a verified complaint charging said petitioner and one William  
2 Schneiderman with conspiracy to commit offenses against the United States pro-  
3 hibited by Section 2 of the Smith Act, 54 Stat. 671, 18 U.S.C. (1946 Ed.) 10,  
4 and 18 U.S.C. (1948 Ed.) 2385.

5 III

6 That following said petitioner's arrest was taken without delay on July  
7 26, 1951, before the nearest United States Commissioner; namely, Honorable  
8 Howard V. Calverley, at Los Angeles, California, who then and there arraigned  
9 said petitioner and continued the matter to August 9, 1951 at 10:00 a.m. for  
10 preliminary examination and set bail in the amount of \$75,000 pending said pre-  
11 liminary examination, and in default thereof ordered said petitioner committed  
12 to the custody of this respondent.

13 IV

14 The grand jury for the Southern District of California, in and for the  
15 Central Division, met on the 27th, 30th, and 31st days of July, 1951, and, after  
16 hearing the evidence presented, did on the 31st day of July, 1951, return an in-  
17 dictment against the petitioner herein and eleven other named defendants, a cer-  
18 tified copy of which is attached hereto as Exhibit "A". That said grand jury re-  
19 commended bail in the amount of \$75,000 for the petitioner herein and, on the  
20 return of the indictment, said amount of bail was approved by Judge James M.  
21 Carter, before whom the said indictment was returned.

22 V

23 On the 2nd day of August, 1951, the petitioner herein was arraigned on  
24 said indictment and, at the request of petitioner herein, the plea on said  
25 indictment was continued until the 13th day of August, 1951. On the 13th day  
26 of August, 1951, at the petitioner's request, the plea on said indictment was  
27 again continued until the 20th day of August, 1951. On the 16th day of August,  
28 1951, on petitioner's request, the order setting said matter for plea on  
29 August 20, 1951, was vacated and the plea on said indictment was again con-  
30 tinued until the 22nd day of August, 1951. On August 22, 1951, the plea was  
31 continued at petitioner's request to August 29, 1951, and on August 29, 1951,  
32 the petitioner herein entered a plea of not guilty before the Honorable Wm. C.  
33 Mathes, to whose court the cause was transferred for all further proceedings.

## VI

1  
2 Following the proceedings set forth in paragraphs VIII to XVIII of  
3 the petition herein and after the opinion by the United States Court of Appeals  
4 for the Ninth Circuit in the case of Philip Marshall Connelly, petitioner, v.  
5 The United States District Court in and for the Southern District of California,  
6 Central Division, and Honorable James M. Carter, Judge thereof, respondents  
7 (No. 13053, decided August 24, 1951), was rendered, Judge James M. Carter did, on  
8 the 29th day of August, 1951, disqualify himself as to both Philip Marshall  
9 Connelly and the petitioner herein, and transferred all proceedings in said  
10 case of United States v. Schneiderman, et al., to Judge Paul J. McCormick,  
11 Presiding Judge of the United States District Court for the Southern District of  
12 California. Judge Paul J. McCormick on the same date assigned said case to  
13 Judge Wm. C. Mathes for all further proceedings. Thereafter, on the 29th day  
14 of August, 1951, a motion was made before the Honorable Wm. C. Mathes to reduce  
15 the bail of the petitioner herein, and following a full hearing lasting two  
16 days an order was made on August 30, 1951, reducing the amount of bail set on  
17 said indictment to the sum of \$50,000. That petitioner has not given such bail  
18 and is detained by respondent pursuant to the proceedings aforesaid; that in  
19 said hearings before Judges Wm. C. Mathes and ~~Louis B. Goodman~~ the same matters  
20 were raised as are raised in the said petition, and said matters have already  
21 been litigated.

## VII

22  
23 That the order of said Judge William C. Mathes fixing bail in the  
24 amount of \$50,000 does not, under the circumstances herein involved, constitute  
25 an excessive requirement of bail in accordance with the Eighth Amendment of  
26 the Constitution of the United States, and does not amount to a violation of  
27 said Amendment or the Fifth Amendment thereto, and does not show any abuse of  
28 discretion by said Judge William C. Mathes.

## VIII

29  
30 That named in the indictment above-mentioned, as unindicted co-con-  
31 spirators with the petitioner herein, are: Robert G. Thompson, Henry Winston,  
32 Gilbert Green, and Gus Hall. That the said last-named individuals were defendant

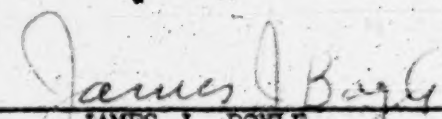


1 in the case of United States v. Dennis, et al., who were convicted in the  
2 Southern District of New York on a violation of the same Act under which the  
3 above-mentioned indictment was returned, and which conviction was, on June 4,  
4 1951, affirmed by the Supreme Court of the United States. That, thereafter,  
5 said last-named persons failed to appear and surrender to serve the sentence  
6 theretofore imposed and on July 2, 1951, bench warrants were ordered issued by  
7 the United States District Court for the Southern District of New York for said  
8 persons, and on July 3, 1951, the bonds theretofore posted (referred to in the  
9 petition herein) by said persons were ordered forfeited by that court. The  
10 nature of the offense charged in the indictment herein is the incitement of  
11 rebellion looking to the overthrow of the government of the United States by  
12 force and violence and disloyalty to the United States. Under the facts and  
13 circumstances here involved the defendants in said indictment, including the  
14 petitioner herein, lack the usual incentive of respect to said government.  
15 Your respondent alleges that the petitioner herein is a poor security risk  
16 and that unless a substantial bail is required of said petitioner, said  
17 petitioner would not appear to answer the charges contained in the indictment  
18 herein.

IX

19 That in none of the cases mentioned in EXHIBITS "A" and "B" of the peti-  
20 tion herein, save and except the two New York cases of United States v. Dennis  
21 and United States v. Flynn, is the charge the same as is contained in the indict-  
22 ment herein, all of said cases being routine cases involving violations of  
23 various federal statutes.

24 WHEREFORE, the respondent, James J. Boyle, United States Marshal for the  
25 Southern District of California, having made due and full answer to the writ of  
26 habeas corpus heretofore issued herein, pursuant to the petition for writ of  
27 habeas corpus, respectfully prays that the petition for writ of habeas corpus  
28 be dismissed and that the petitioner, Philip Marshall Connolly, be remanded to re-  
29 spondent's custody to be dealt with according to the laws of the United States  
30 of America.

31  
32   
JAMES J. BOYLE  
United States Marshal for the  
Southern District of California

1 UNITED STATES OF AMERICA )  
2 Southern District of California ) ss.

3 JAMES J. BOYLE, United States Marshal for the Southern District of  
4 California, being first duly sworn, on his oath deposes and says:

5 That he is the person who makes the aforesaid return; that he has read  
6 the same and knows the contents thereof, and that the same is true according  
7 to the best of his knowledge and belief.

*James J. Boyle*  
JAMES J. BOYLE

8  
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11  
12 SUBSCRIBED and SWORN to before me  
13 this 6<sup>th</sup> day of September, 1951.

14 EDMUND L. SMITH  
15 Clerk, United States District Court  
16 Southern District of California

17 By Charles A. Senty Deputy  
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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

February, 1951, Grand Jury

FILED  
JULY 31, 1951  
EDMUND L. SMITH, CLERK  
By Maxine Lewis, Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 21883 CD

[U.S.C., Title 18, Sec. 11 (1946 Ed.);  
U.S.C., Title 18, Sec. 371 (1948 Ed.);  
Section 3 of the Smith Act, 54 Stat. 671-  
Conspiracy to violate the Smith Act]

I N D I C T M E N T

WILLIAM SCHNEIDERMAN,  
DOROTHY ROSENBLUM HEALEY,  
ALBERT JASON LIMA,  
OLETA O'CONNOR YATES,  
CARL RUDE LAMBERT,  
PHILIP MARSHALL CONNELLY,  
ROSE CHERNIN KUSNITZ,  
AL RICHMOND, also known as  
Abraham Richman,  
ERNEST OTTO FOX, also known as  
Ernest Otto Fuchs,  
HENRY STEINBERG,  
LORETTA STARVUS STACK, and  
MARY BERNADETTE DOYLE,

Defendants.

The grand jury charges:

(1) From and on or about April 1, 1945, and continuously thereafter

up to and including the date of the filing of this indictment, in the Southern

District of California, and elsewhere, WILLIAM SCHNEIDERMAN, DOROTHY ROSENBLUM

HEALEY, ALBERT JASON LIMA, OLETA O'CONNOR YATES, CARL RUDE LAMBERT, PHILIP

MARSHALL CONNELLY, ROSE CHERNIN KUSNITZ, AL RICHMOND, also known as Abraham

Richman, ERNEST OTTO FOX, also known as Ernest Otto Fuchs, HENRY STEINBERG,

LORETTA STARVUS STACK, and MARY BERNADETTE DOYLE, the defendants herein,

unlawfully, wilfully, and knowingly did conspire with each other and with

William Z. Foster, Eugene Dennis, John B. Williamson, Jacob Stachel, Robert

G. Thompson, Benjamin J. Davis, Jr., Henry Winston, John Gates, Irving Potash,

Gilbert Green, Carl Winter, and Gus Hall, co-conspirators but not defendants

1 herein, and with divers other persons to the grand jury unknown, to commit  
2 offenses against the United States prohibited by Section 2 of the Smith Act,  
3 54 Stat. 671, 18 U.S.C. (1946 Ed.) 10, and 18 U.S.C. (1948 Ed.) 2385, by so  
4 conspiring (1) unlawfully, wilfully, and knowingly to advocate and teach the  
5 duty and necessity of overthrowing the Government of the United States by  
6 force and violence, and (2) unlawfully, wilfully, and knowingly to organize  
7 and help organize as the Communist Party of the United States of America a  
8 society, group, and assembly of persons who teach and advocate the overthrow  
9 and destruction of the Government of the United States by force and violence,  
10 in violation of Section 3 of the Smith Act, 54 Stat. 671, 18 U.S.C. (1946 Ed.)  
11 11, and 18 U.S.C. (1948 Ed.) 371;

12 (2) It was part of said conspiracy that said defendants and  
13 co-conspirators would become members, officers, and functionaires of said Party  
14 knowing the purposes of the Party, and in such capacities would assume leader-  
15 ship in said Party and responsibility for carrying out its policies and  
16 activities up to and including the date of the filing of this indictment;

17 (3) It was further part of said conspiracy that said defendants and  
18 co-conspirators would cause to be organized Groups, Clubs, Sections, District  
19 and State Units of said Party in the State of California and elsewhere and  
20 would recruit and encourage recruitment of members of said Party, concentrating  
21 on recruiting persons employed in key basic industries and plants;

22 (4) It was further a part of said conspiracy that said defendants  
23 and co-conspirators would publish and circulate and cause to be published  
24 and circulated books, articles, magazines, and newspapers teaching and  
25 advocating the duty and necessity of overthrowing and destroying the Government  
26 of the United States by force and violence;

27 (5) It was further a part of said conspiracy that said defendants  
28 and co-conspirators would write and cause to be written articles and directives  
29 in publications of the Communist Party of the United States of America  
30 including, but not limited to, "Political Affairs," "Daily People's World,"  
31 "Daily Worker," and "The Worker," teaching and advocating the necessity of  
32 overthrowing and destroying the Government of the United States by force  
and violence;



1 (6) It was further a part of said conspiracy that said defendants  
2 and co-conspirators would conduct and cause to be conducted schools and  
3 classes for indoctrination of recruits and members of said Party in the  
4 principles of Marxism-Leninism in which would be taught and advocated the  
5 duty and necessity of overthrowing and destroying the Government of the  
6 United States by force and violence as speedily as circumstances permit;

7 (7) It was further a part of said conspiracy that said defendants  
8 and co-conspirators would agree upon and carry into effect detailed plans  
9 for the vital parts of the Communist Party of the United States of America  
10 to go underground in the event of emergency and from said underground  
11 position to continue in all respects the conspiracy described in paragraph (1);

12 (8) It was further a part of said conspiracy that said defendants  
13 and co-conspirators would use false names, passports, and other false documents  
14 in order to conceal their identities and activities as members and function-  
15 aries of said Party;

16 (9) It was further a part of said conspiracy that said defendants  
17 and co-conspirators would do other and further things to conceal the existence  
18 and operations of said conspiracy; and

19 In pursuance of said conspiracy and to effect the objects thereof,  
20 in the Southern District of California, the defendants and co-conspirators  
21 did commit, among others, the following

22 OVERT ACTS:

23 1. On or about July 17 and 18, 1948, WILLIAM SCHNEIDERMAN, DOROTHY  
24 ROSENBLUM HEALEY, ALBERT JASON LIMA, OLETA O'CONNOR YATES, CARL RUDE  
25 LAMBERT, AL RICHMOND, also known as Abraham Richman, LORETTA STARVUS STACK, and  
26 MARY BERNADETTE DOYLE, defendants herein, did attend and participate in  
27 a Convention of the Communist Party of the State of California at Park Manor,  
28 Sixth Street and Western Avenue, Los Angeles, California;

29 2. On or about August 20, 1948, MARY BERNADETTE DOYLE, a defendant  
30 herein, did attend and participate in a meeting of the Morgan Hull Club in  
31 San Diego, California;

1           3. On or about August 21, 1948, LORETTA STARVUS STACK, a defendant  
2 herein, did prepare and issue a directive and cause it to be circulated by  
3 the California State Committee of the Communist Party;

4           4. On or about August 21, 1948, AL RICHMOND, also known as Abraham  
5 Richman, a defendant herein, did issue a directive and cause it to be  
6 circulated by the California State Committee of the Communist Party;

7           5. On or about January 21, 1949, HENRY STEINBERG, a defendant  
8 herein, did attend and participate in a meeting;

9           6. On or about May 20, 1949, ROSE CHERNIN KUSNITZ, a defendant  
10 herein, did attend and participate in a meeting held at 847 South Grand  
11 Avenue, Los Angeles, California;

12           7. On or about December 7, 1949, WILLIAM SCHNEIDERMAN and DOROTHY  
13 ROSENBLUM HEALEY, defendants herein, did attend and participate in a meeting  
14 at Park View Manor, 2200 West Seventh Street, Los Angeles, California;

15           8. On or about January 20, 1950, WILLIAM SCHNEIDERMAN, a defendant  
16 herein, did attend and participate in a meeting at Embassy Auditorium,  
17 Los Angeles, California;

18           9. On or about February 15, 1950, MARY BERNADETTE DOYLE, a defendant  
19 herein, did attend and participate in a meeting held at 7891 Normandie Street,  
20 San Diego, California;

21           10. On or about April 6, 1950, WILLIAM SCHNEIDERMAN, a defendant  
22 herein, did attend and participate in a meeting at 3875 City Terrace Boulevard  
23 Los Angeles, California;

24           11. On or about June 12, 1950, ALBERT JASON LIMA, a defendant herein,  
25 did attend and participate in a meeting at 2200 West Seventh Street, Los  
26 Angeles, California;

27           12. On or about June 24, 1950, PHILIP MARSHALL CONNELLY, MARY  
28 BERNADETTE DOYLE, and ALBERT JASON LIMA, defendants herein, did attend and  
29 participate in a meeting at Park Manor, 607 South Western Avenue, Los Angeles,  
30 California;

31           13. On or about November, 1950, ERNEST OTTO FOX, also known as Ernest  
32 Otto Fuchs, a defendant herein, did prepare and issue a directive and cause it  
to be circulated;



1 14. On or about April 9, 1951, CARL RUDE LAMBERT, a defendant herein,  
2 did attend and participate in a meeting at 405 De La Guerra Street, Santa  
3 Barbara, California;

4 15. On or about July 24, 1951, OLETA O'CONNOR YATES, a defendant  
5 herein, did attend and participate in a meeting at 124 West Sixth Street,  
6 Los Angeles, California.

7  
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9  
10 A TRUE BILL  
11

12 Robert B. Young, III  
Foreman

13 Ernest A. Tolin  
14 ERNEST A. TOLIN,  
United States Attorney.  
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*Legislative Order of Facilitation*

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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

LORETTA STARVUS STACK,  
Petitioner,  
vs.  
JAMES J. BOYLE, United  
States Marshal,  
Respondent.

No. 13436

AL RICHMOND,  
Petitioner,  
vs.  
JAMES J. BOYLE, United  
States Marshal,  
Respondent.

No. 13437

PHILIP MARSHALL CONNELLY,  
Petitioner,  
vs.  
JAMES J. BOYLE, United  
States Marshal,  
Respondent.

No. B 438



1 DOROTHY ROSENBLUM HEALEY,  
2                                      Petitioner,  
3                                      vs.

No. 13439

4 JAMES J. BOYLE, United  
5 States Marshal,  
6                                      Respondent.

7 ERNEST OTTO FOX,  
8                                      Petitioner,  
9                                      vs.

No. 13440

10 JAMES J. BOYLE, United  
11 States Marshal,  
12                                      Respondent.

13 WILLIAM SCHNEIDERMAN,  
14                                      Petitioner,  
15                                      vs.

No. 13441

16 JAMES J. BOYLE, United  
17 States Marshal,  
18                                      Respondent.

19 CARL RUDE LAMBERT,  
20                                      Petitioner,  
21                                      vs.

No. 13442

22 JAMES J. BOYLE, United  
23 States Marshal,  
24                                      Respondent.

25 HENRY STEINBERG,  
26                                      Petitioner,  
27                                      vs.

No. 13443

28 JAMES J. BOYLE, United  
29 States Marshal,  
30                                      Respondent.

1 CLETA O'CONNOR YATES,  
2 Petitioner.

VS.

No. 13444

JAMES J. BOYLE, United  
States Marshal,

Respondent.

ROSE CHERNIN KUSNITZ,

Petitioner,

VS.

No. 13445

JAMES J. BOYLE, United  
States Marshal,

Respondent.

MARY BERNADETTE DOYLE,

Petitioner,

VS.

No. 13446

JAMES J. BOYLE, United  
States Marshal,

Respondent:

ALBERT JASON LINA,

Petitioner,

VS.

No. 13447

JAMES J. BOYLE, United  
States Marshal.

Respondent.

### STIPULATION

IT IS HEREBY STIPULATED, CONSENTED AND AGREED by and between the attorneys for petitioners above named and the attorneys for the respondent herein that the petitions for writs of habeas corpus in the above entitled causes shall be consolidated and treated as



joint petition for writ of habeas corpus.

DATED: This 6th day of September, 1951.

/s/ Ben Margolis  
Ben Margolis

/s/ Daniel G. Marshall  
Daniel G. Marshall

Attorneys for Petitioner Philip  
Marshall Connelly

MARGOLIS and McTERNAN

By /s/ Ben Margolis  
Ben Margolis

/s/ Leo A. Sullivan  
Leo A. Sullivan

Attorneys for remaining Petitioners

ERNEST A. TOLIN  
United States Attorney

By /s/ Ray H. Kinnison  
Ray H. Kinnison  
Assistant United States Attorney

Attorneys for Respondent

ORDER:

It is so ordered:

/s/ Ben Harrison  
JUDGE of the United States District Court

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8 IN THE DISTRICT COURT OF THE UNITED STATES  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION  
11

12 LORETTA STARVUS STACK,

13 Petitioner,

No. 13436-BH

14 vs.

15 JAMES J. BOYLE, United  
16 States Marshal,

17 Respondent.

18 AL RICHMOND,

19 Petitioner,

No. 13437-BH

20 vs.

21 JAMES J. BOYLE, United  
22 States Marshal,

23 Respondent.

24 PHILIP MARSHALL CONNELLY,

25 Petitioner,

No. 13438-BH

26 vs.

27 JAMES J. BOYLE, United  
28 States Marshal,

29 Respondent.



1 DOROTHY ROSENBLUM HEALEY,

2 Petitioner,

No. 13439-BH

3 vs.

4 JAMES J. BOYLE, United  
5 States Marshal,

6 Respondent.

7 ERNEST OTTO FOX,

8 Petitioner,

No. 13440-BH

9 vs.

10 JAMES J. BOYLE, United  
11 States Marshal,

12 Respondent.

13 WILLIAM SCHNEIDERMAN,

14 Petitioner,

No. 13441-BH

15 vs.

16 JAMES J. BOYLE, United  
17 States Marshal,

18 Respondent.

19 CARL RUDE LAMBERT,

20 Petitioner,

No. 13442-BH

21 vs.

22 JAMES J. BOYLE, United  
23 States Marshal,

24 Respondent.

25 HENRY STEINBERG,

26 Petitioner,

No. 13443-BH

27 vs.

28 JAMES J. BOYLE, United  
29 States Marshal,

30 Respondent.

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1 OLETA O'CONNOR YATES,

2 H Petitioner,

No. 13444-BH

3 vs.

4 JAMES J. BOYLE, United  
5 States Marshal,

6 Respondent.

7 ROSE CHERNIN KUSNITZ,

8 Petitioner,

No. 13445-BH

9 vs.

10 JAMES J. BOYLE, United  
11 States Marshal,

12 Respondent.

13 MARY BERNADETTE DOYLE,

14 Petitioner,

No. 13446-BH

15 vs.

16 JAMES J. BOYLE, United  
17 States Marshal,

18 Respondent.

19 ALBERT JASON LIMA,

20 Petitioner,

No. 13447-BH

21 vs.

22 JAMES J. BOYLE, United  
23 States Marshal,

24 Respondent.

25  
26 MEMORANDUM OPINION

27  
28 The above petitions for writs of habeas corpus were con-  
29 solidated for hearing and the sole question for this court to de-  
30 termine in each matter is whether the bail of \$50,000 is excessive  
31 and by reason thereof petitioners are unlawfully deprived of their  
32 liberty contrary to the provisions of the Eighth Amendment to the



1 Constitution of the United States.

2 It appears from the records of this court and the tran-  
3 script of various proceedings that the question of bail as to some  
4 of the petitioners has been before two district judges of this dis-  
5 trict, one in San Francisco (Judge Goodman), and one in New York  
6 (Judge Dimock). (See Cr. file No. 21883 of this district).

7 Now through these proceedings petitioners seek to have  
8 me ignore the record, absolutely strike from my mind the separate  
9 rulings by four district judges, and indirectly hold that the bail  
10 fixed is excessive and each of said judges has abused the dis-  
11 cretion vested in him.

12 Counsel for petitioners claim that bail in excess of  
13 \$5,000 would be prohibitive, therefore, the court should fix bail  
14 in that amount. In other words, petitioners contend that bail  
15 should be fixed in accordance with their ability to furnish bail.  
16 To follow their argument to a natural conclusion, if they could  
17 raise bail in an amount not in excess of \$10, the bail should be  
18 so fixed. If such a rule were adopted all prisoners now waiting  
19 for trial on bailable offenses would be entitled to have bail  
20 fixed in accordance with their respective abilities.

21 As stated in U. S. ex rel. Rubinstein v. Mulcahy etc.,  
22 155 F. (2d) 1002: "The purpose of bail before trial is to insure  
23 the presence of the accused when required without the hardship of  
24 incarceration before guilt has been proved and while the presump-  
25 tion of innocence is to be given effect." (See also Rule 46(c)  
26 F.R.C.P.).

27 How much should the bail of petitioners be to meet the  
28 requirements of the foregoing quotation? The Grand Jury that heard  
29 the evidence recommended \$75,000. How can I say that all who have  
30 exercised their discretion are wrong because I may or may not agree  
31 with them?

32 When a person is released on bail before trial such per-

1 son is a calculated risk and the amount of bail resolves itself  
2 into a matter of judgment. Sometimes the courts are wrong but  
3 fortunately the defendants usually appear. The offenses charged  
4 are very serious and the court realizes as a matter of common  
5 knowledge that those charged with similar and related offenses the  
6 forfeitures have been above average and apprehension after for-  
7 feiture has been nil. Should the court ignore these facts?

8 Perhaps through these proceedings our reviewing courts  
9 can furnish the trial courts with a yardstick to determine the  
10 amount of bail required to assure the presence at the time of  
11 trial of the petitioners and others similarly charged. My only  
12 hope is that their judgment on such calculated risks may be cor-  
13 rect.

14 I have ordered the transcript of the proceedings before  
15 Judge Mathes filed as an exhibit in these proceedings, together  
16 with the records of the court on the motions for reduction of bail  
17 before him in the criminal case, and have admitted in evidence the  
18 transcript of the proceedings in Healey et al. v. Boyle, No. 13360  
19 to No. 13370. I have examined such proceedings and have consid-  
20 ered the same and am unable to conclude that the amount of bail,  
21 fixed in each instance is either arbitrary or the result of an  
22 abuse of discretion. I further find that such amounts as were  
23 fixed are necessary to assure the presence of the petitioners in  
24 the further proceedings in the criminal case and for no other pur-  
25 pose.

26 The procedure followed in these matters is that outlined  
27 in the Rubenstein case (155 F. (2d) 1002). The record herein in-  
28 dicates that such procedure is cumbersome and unnecessarily delays  
29 the ultimate disposition of matters that are entitled to expedi-  
30 tious action by the courts.

31 I make these comments not in criticism of the present  
32 method but rather as an invitation to our reviewing courts to



1 provide a more expeditious procedure. With my ruling in this case,  
2 five district judges have passed on the reasonableness of the  
3 amount of bail. If we are in error petitioners have had to  
4 languish in jail to meet the requirements of legal formalism.

5 The petition for writ of habeas corpus in each matter is  
6 hereby denied and the petition in each instance is hereby dis-  
7 missed.

8 The government is ordered to submit forthwith proposed  
9 order of dismissal of said petitions.

10 DATED: This 12th day of September, 1951.

11  
12 /s/ Ben Harrison

13 JUDGE  
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1  
2 For the purpose of adequately preparing for their defense  
3 herein it will be necessary for the defendants including petition-  
4 er to examine and study each of the exhibits offered by the Gov-  
5 ernment in the case of United States v. Dennis and each of the ex-  
6 hibits offered by the defendants in said case, for the reason that  
7 the indictment herein charges that each of the defendants herein  
8 are parties to the same alleged conspiracy which was the basis of  
9 the charge against the defendants in the said case of United States  
10 v. Dennis.

X X X ✓

11  
12 In the said case of United States v. Dennis the Government  
13 offered at the trial 234 exhibits of which number approximately  
14 200 were admitted in evidence. The said exhibits included por-  
15 tions of books such as the "English Version, Seventh World Cong-  
16 ress, Communist International, Volume 15" with more than 850 pages,  
17 excerpts from numerous editions of the Daily Worker and excerpts  
18 from numerous other pamphlets and documents published over a per-  
19 iod of many years. For example, the first twenty Government ex-  
20 hibits out of the total of 234 offered were:

21 1. Photostatic copy of an article from "Daily Worker" of  
22 October 2, 1935.

23 2. Pages 861 and 862 of book entitled "English Version.  
24 Seventh World Congress. Communist International 8/8/35"  
25 Vol. 15.

26 3. Excerpts from booklet entitled "Program of the Commun-  
27 ist International." (These excerpts ran from page 14473 to  
28 page 14520 in the Joint Appendix of the said case of United  
29 States v. Dennis.)

30 4. Excerpts from Manual entitled "Manual of Organization"  
31 by J. Peters. (These excerpts ran from page 14521 to 14536  
32 in the said Joint Appendix.)



1 5. Excerpts from Manual entitled "Why Communism?" by M.  
2 J. Olgin. (These excerpts ran from page 14537 to 14555 in  
3 the said Joint Appendix.)

4 6. Book entitled "Foundations of Leninism," by Joseph  
5 Stalin. (The entire book consisting of 123 printed pages  
6 was admitted in evidence.)

7 7. Article "Strengthen National Unity," by Earl Browder,  
8 from "The Worker," dated 1/16/44, Mag. Sec., pages 7-12.

9 8. Booklet entitled "The Communist," dated Feb., 1944.

10 8-A. Pages 107 and 108 of booklet entitled "The Commu-  
11 nist" of Feb., 1944.

12 9. Pamphlet entitled "The Path to Peace, Progress and  
13 Prosperity" - May 20-22, 1944.

14 10. Page 10 of New York Times - 5/7/45.

15 11. Page 1 of New York World Telegram - 5/22/45.

16 12. Photostat of "Daily Worker" of 5/24/45.

17 12-A. Article, "On the Dissolution of the Communist Party  
18 of the United States of America," by Jacques Duclos, from  
19 pages 7, 8 and 9 of "Daily Worker" of 5/24/45. (This art-  
20 icle ran from page 14557 to 14580 in the said Joint Appen-  
21 dix.)

22 13. Photostat of "Daily Worker" of June 4, 1945.

23 13-A. Article "The Present Situation and Next Tasks"  
24 Resolution of National Board Communist Political Associa-  
25 tion adopted June 2, 1945, from pages 4 and 5 of "Daily  
26 Worker" of June 4, 1945. (This article ran from page  
27 14581 to page 14594 in the said Joint Appendix.)

28 14. Photostat of "Daily Worker" of June 10, 1945.

29 14-A. Article "On Revisionism in the C.P.A." from pages  
30 7 and 8 of "Daily Worker" of June 10, 1945. (This article  
31 ran from page 14594 to 14601 in the said Joint Appendix.)

32 15. Photostat of "Daily Worker" of June 16, 1945.

1 15-A. Article "Thompson Discusses Browder's Program" by  
2 Bob Thompson, page 7 of "Daily Worker" of June 16, 1945.

3 16. A letter.

4 17. Booklet entitled "Political Affairs," dated July, 1945,  
5 and excerpts from said booklet as indicated. (These ex-  
6 cerpts ran from page 14608 to page 14652 in the said Joint  
7 Appendix.)

8 18. Photostat of "Daily Worker" of June 22, 1945.

9 18-A. Article "CPA National Committee backs Resolution,  
10 Calls Convention," page 2 of "Daily Worker" of June 22,  
11 1945.

12 19. Photostat of "Daily Worker" of 6/23/45.

13 19-A. Article "Call CPA Convention July 26" from page 3  
14 of "Daily Worker" of 6/23/45.

15 20. Photostat of "The Worker" of 6/24/45.

16 20-A. Article "Says Leadership Can't Shirk Responsibili-  
17 ties for Errors," by John Williamson, from page 8 of "The  
18 Worker" of 6/24/45.

19 The defense in that case offered 346 exhibits of which 93  
20 were admitted in evidence. The said exhibits were similar in  
21 source and length to those offered by the prosecution.

22 X X X V //

23 In order to adequately prepare for the defense it will be  
24 necessary for the defendants including petitioner to examine each  
25 of the aforesaid exhibits in their entirety in order to ascertain  
26 whether portions of the exhibits not offered or received in evi-  
27 dence may be used to rebut the inferences which the Government  
28 will ask the jury to draw from the portions of the exhibits which  
29 it offers. In addition, it will be necessary for the defendants  
30 to examine numerous other books, pamphlets and newspapers in order  
31 to determine what related material is available to them for the  
32 purposes mentioned above.

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1  
2 Many of the books, documents and pamphlets are, so far as de-  
3 fendants know, not readily available at any one place and it will  
4 be necessary for defendants to examine the bibliographies of vari-  
5 ous libraries such as the Los Angeles Public Library, the Univer-  
6 sity of California Library at Los Angeles, the Huntington Library,  
7 and others, and to visit various book stores to determine what  
8 books and pamphlets they have available, to examine their own  
9 files, records and libraries, as well as to seek to find other  
10 persons who may have some of said books, pamphlets or documents  
11 available.

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12  
13 The defendants including petitioner have been advised by  
14 their counsel that it will be impossible for their counsel to un-  
15 dertake the responsibility for this work and that if preparation  
16 is to be made with respect to the various documents which may be  
17 offered on behalf of the Government and which should be offered on  
18 behalf of the defense, it will be necessary for the defendants  
19 themselves to secure such documents to become thoroughly familiar  
20 with them, to analyze them and to present their analysis to their  
21 said counsel.

X <

22  
23 In addition to the books, records and documents offered by  
24 both sides in the case of United States v. Dennis, it will be ne-  
25 cessary for the defendants including petitioner to examine numer-  
26 ous publications, pamphlets and similar documents which were is-  
27 sued on the West Coast which it will be necessary for the defen-  
28 dants to secure from the various sources enumerated above in order  
29 to prepare to meet evidence which the Government may offer with  
30 respect to the ideas and beliefs and the speech and writings of  
31 these defendants, and in order to present their own defense with  
32 respect to such ideas, beliefs, speech and writings.

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It will be absolutely impossible for the defendants to prepare their defense unless they are in a position to visit their various homes and offices, the libraries mentioned above, book stores, the homes of persons who may have material available, and other places where they may discover that some of the material needed is available.

In addition, they will require the opportunity frequently to consult privately and confidentially with their counsel, both individually and in groups. They will also require assistance from research persons, secretaries and other persons with whom they must consult frequently and regularly in order to undertake even the beginnings of the vast job of preparation which confronts them.

The tremendous task of preparation would present many problems even if the defendants were free on bail. The indictment in this case being based on the alleged ideas and beliefs allegedly held by the defendants as well as the ideas and beliefs allegedly contained in books, documents, newspapers and other writings presents a unique problem from the standpoint of preparation for trial. There is involved in this case the fundamental principles of Marxism-Leninism, a world view of nature and society first developed by Marx and Engels over 100 years ago and having its origin in much of the prior thought of mankind especially British classical political economy, French materialism and German classical idealism, especially that of Hegel. Marxism was added to and extended and further developed over the period of a century on the basis of new conditions and new experiences throughout the world. Leninism is a further development of Marxism in the period referred to by Lenin as the epoch of imperialism.



XLIV

As a comprehensive world view, Marxism-Leninism embraces all aspects of nature and society. It consequently deals with innumerable teachings, doctrines, laws, concepts, theories and tendencies in such spheres as history, philosophy, political economy, sociology, etc.

XLV

The principles of Marxism and Leninism, their development and their application in concrete situations, are not contained in any single text or compendia but are contained in the writings of many Marxist scholars and philosophers published over many years and in many countries. The defendants in this case must prepare to defend themselves against the charge that they have conspired to advocate matters which may appear in any one of the thousands upon thousands of publications upon which the Government might rely. In addition, they must be prepared to present their own views in respect to these innumerable documents. Never before the Dennis case has any court of law sought to try such a body of doctrine and thinking. In this type of trial, a trial of books and ideas, only the most intensive and concentrated work will permit even the minimum amount of preparation necessary for the defendants to present a defense.

XLVI

The indictment herein charges that as a part of the alleged conspiracy petitioner and the other persons named in the indictment, and divers unnamed persons, would write and cause to be written articles and directives in publications of the Communist Party of the United States of America, including but not limited to "Political Affairs," "Daily People's World," "Daily Worker" and "The Worker."

XLVII

With respect to the said Daily People's World, as alleged in

1 the petition of Philip Marshall Connelly, this newspaper was pub-  
2 lished last year Monday through Friday of each week and prior to  
3 that time and for a number of years prior to April 1, 1945, said  
4 newspaper was published Monday through Saturday of each week. In  
5 order, therefore, just to examine and analyze the issues of the  
6 said paper commencing April 1, 1945 (the date when the alleged con-  
7 spiracy herein was begun) it would be necessary to examine 1,770  
8 issues of not less than four pages and as many as eight to ten  
9 pages of conventional size or tabloid size newspaper. The other  
10 publications named in the indictment herein are, on information  
11 and belief, of considerable volume probably exceeding in size that  
12 of the Daily People's World as aforesaid.

13 XLVIII

14 In order to properly prepare the defense herein as above out-  
15 lined, there is need for petitioner's freedom on reasonable bail  
16 so that petitioner can earn his livelihood and obtain the necessary  
17 funds required in a legal defense of the scope hereinabove stated.  
18 Petitioner cannot properly prepare a defense while petitioner and  
19 petitioner's witnesses are subject to surveillance and confinement  
20 in a room, where petitioner is unable to earn a livelihood and  
21 where the time for consultation among counsel, witnesses and peti-  
22 tioner is severely limited.

23 XLIX

24 In view of the facts and circumstances hereinabove set forth,  
25 petitioner respectfully submits to the Court that petitioner is at  
26 the present time unlawfully imprisoned and restrained of petition-  
27 er's liberty; that petitioner's imprisonment and detention are il-  
28 legal, arbitrary and a denial of rights secured to petitioner by  
29 the Constitution of the United States and that bail in the sum of  
30 \$50,000 is so excessive and so unreasonable as to constitute an  
31 absolute denial of petitioner's right to bail and petitioner's  
32 right as a matter of due process of law to properly defend peti-

18



1 tioner against the charges which have been brought against peti-  
2 tioner.

3  
4 That no previous application for a writ of habeas corpus has  
5 been made in this matter to any other court except as hereinabove  
6 alleged.

7 WHEREFORE, petitioner prays that a writ of habeas corpus may  
8 issue directed to James J. Boyle, United States Marshal, Southern  
9 District of California, Central Division, and to any other offi-  
10 cers having custody of the body of your petitioner, commanding him  
11 to have the body of your petitioner produced before this Court at  
12 a time and place to be specified, to do and receive what shall  
13 then and there be considered concerning your petitioner together  
14 with time and cause of petitioner's detention and said writ; and  
15 that this honorable Court order and direct that petitioner be re-  
16 leased from such custody forthwith upon such reasonable bail as  
17 may be determined in the premises.

18 DATED: This 4th day of September, 1951.

19  
20 13/ Dorothy Rosenblum Healy

21 (verified September 5, 1951)  
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# EXHIBIT A

The Pending Register of Federal Criminal Actions in the Central District was examined. Approximately 186 cases were bail cases. The only cases where bail was fixed at \$10,000 or more is the annexed list. Many of these annexed indictments contained more than one count.

<u>CHARGE</u>	<u>PENALTY</u>	<u>BAIL</u>
Mail fraud and conspiracy	5 years - \$10,000 (5 counts)	\$25,000
Failure to self-deport)	10 years	25,000
Failure to self-deport)	10 years	15,000
Concealing assets in bank	5 years - \$5,000	15,000
Transmission of threatening letters	5 years - \$1,000	15,000
Transmission of threatening letters	5 years - \$1,000	10,000
Perjury	5 years - \$2,000	10,000
Evasion of Income Tax	5 years - \$10,000	10,000
Firearms in Interstate Commerce	5 years - \$2,000	10,000
Robbery of United States Mail	10 years	10,000
Conspiracy to defraud Govt.	10 years - \$10,000	10,000 reduced to 5,000
Concealing assets	5 years - \$5,000	10,000

## Smith Act Prosecutions in New York

### (1) Dennis v. U. S. - 12 defendants

\$5,000 after indictment. After conviction - \$20,000 each - fixed by Circuit Court. Bail continued by Jackson, J., pending applications for writ (Williamson v. U. S., 95 L.Ed. Adv. 10)

# EXHIBIT A



1 (2) U. S. v. Flynn, et al

2 Flynn, Perry, Gerson, Bachrach, Weinstock, Lannon,  
3 Jerome, Weinstone, Charney, Begun, Johnson.  
4 \$10,000 - Increase to \$50,000 sought, denied.  
5 Jones, Gannet, and Bittelman - \$20,000 - In-  
6 crease to \$75,000 sought, denied. Mirdel -  
7 \$5,000 - Increase to \$50,000 sought, denied.  
8 Amter - \$1,000 - no increase sought.

9 (3) Hawaii-U.S. v. Hall, et al

10 Bail fixed by Commissioner for 7 defendants at  
11 \$75,000. Reduced by Judge Delbert E. Metzger  
12 to \$5,000. After indictment, bail fixed at  
13 \$7,500.

14 (4) Pittsburgh-West Virginia-U.S. v. Nelson, et al

15 Bail fixed by Commissioner in sum of \$100,000.  
16 Reduced by Judge William Kirkpatrick in Phila-  
17 delphia to \$20,000.

18 (5) Baltimore-U.S. v. Frankfeld

19 Bail fixed by Commissioner at \$75,000. Reduced  
20 for one defendant to \$5,000; second defendant  
21 to \$17,500; third defendant to \$10,000.

22 Terminal Island Four

23 (Carlson v. U.S.)

24 Charge - Alien Communists and advocates of force  
25 and violence. Pending deportation proceedings,  
26 bail denied by Attorney General, District Court  
27 and Circuit Court. On application for writ of  
28 certiorari, bail in sum of \$5,000 unanimously  
29 fixed by United States Supreme Court sitting  
30 as entire body.

32 EXHIBIT A

EXHIBIT B

ANALYSIS

Of the approximately 186 cases examined July 30, 1951 (total in the Pending Register), about 175 fixed bail at less than \$10,000. The following is a tabulation:

Bail

No. of Cases

\$7,500

2

5,000

20

3,500

1

3,000

6

2,500

18

2,000

14

1,500

18

1,000

47

500

22

250

1

Own Recognizance

22

The cases where the penalty was 5 years and up totalled approximately 158 in number, or about 80% of the total number of cases. The average bail in all of the cases where the penalty was 3 years and up amounts to less than \$3,000.



1 The following are the cases in the Pending Register of Criminal  
 2 Actions in Central District where the bail was below \$10,000:

3 <u>CHARGE</u>	<u>PENALTY</u>	<u>COUNTS</u>	<u>BAIL</u>
4 Forgery	10-\$1,000	3	\$ 1,000
5 Passing altered money order	5- 5,000	2	2,000
6 Forging and uttering U. S.			
7 Treasury check	10- 1,000	2	1,000
8 Forging and uttering check	5- 1,000	2	Own Recognizance
9 Forging and uttering check	5- 1,000	2	500
10 Forging and uttering			
11 Government obligation	5- 1,000	2	1,000
12 Harboring and concealing			
13 aliens	5- 1,000	1	1,500
14 Possession and sale of			
15 narcotics	10- 5,000	2	500
16 Illegal wearing uniform,			
17 U.S. Army	6mos 250	1	500
18 Unlawful wearing U.S.			
19 Navy Uniform	6 mos 250	3	500
20 Forging and uttering			
21 Government draft	10- 1,000	2	1,000
22 Unlawful possession of			
23 ration points	1-10,000	1	5,000
24 Forgery, personation and			
25 Conspiracy	10-10,000	4	3,000
26 Forgery, personations and			
27 Conspiracy	10-10,000	4	2,000
28 Conspiracy, possession of			
29 writings and sugar stamps	5-10,000	5	5,000
30 Conspiracy, possession of			
31 writings and sugar stamps	5-10,000	5	Own Recognizance

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2  
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4  
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6  
7 Attorneys for Respondent  
8  
9

10 IN THE UNITED STATES DISTRICT COURT  
11 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
12 CENTRAL DIVISION

13 LORETTA STARVUS STACK, AL  
RICHMOND; PHILIP MARSHALL  
14 CONNELLY, DOROTHY ROSENBLUM  
HEALEY, ERNEST OTTO FOX,  
15 WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
16 OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE, and ALBERT JASON LIMA,

17 Petitioners,

18 v.

19 JAMES J. BOYLE, United  
States Marshal,

20 Respondent.  
21

Nos. 13436/13447

ORDER DENYING PETITIONS FOR  
WRITS OF HABEAS CORPUS AND  
DISCHARGING ORDERS TO SHOW  
CAUSE WHY WRITS OF HABEAS  
CORPUS SHOULD NOT BE GRANTED

22 The above-entitled matters came on regularly for hearing on  
23 September 6, 1951, before the Honorable Ben Harrison, Judge presid-  
24 ing, on Orders to Show Cause Why Writs of Habeas Corpus should not  
25 be granted, the petitioner Philip Marshall Connelly being represent-  
26 ed by his attorneys, Ben Margolis, Esq., and Daniel G. Marshall,  
27 Esq. and the remaining petitioners by their attorneys Margolis and  
28 McTernan, Esq., by Ben Margolis, Esq., and the respondent, James  
29 J. Boyle, being represented by his counsel, Ernest A. Tolin, United  
30 States Attorney for the Southern District of California, and Ray H.  
31 Kinnison, Assistant United States Attorney for the Southern District  
32 of California, and A. L. Wirin, Esq., appearing as amicus curiae; the



1/ Court having ordered upon the stipulation of the attorneys for the  
2 respective parties that the petitions for writs of habeas corpus  
3 be consolidated and treated as a joint petition for writ of habeas  
4 corpus; and the Court having read the petitions for Writs of Habeas  
5 Corpus on file, the Return thereto filed by the respondent to said  
6 petitions for Writs of Habeas Corpus herein; and the Court finding  
7 that on July 31, 1951, and prior to the hearing herein, a True Bill  
8 of indictment was returned in this Court before Judge James M.  
9 Carter, by the Grand Jury for the Southern District of California,  
10 charging the petitioners and others with conspiracy to commit of-  
11 fenses against the United States prohibited by Section 2 of the  
12 Smith Act, 54 Stat. 671, 18 U.S.C. (1946 ed.) 10, and 18 U.S.C.  
13 (1948 ed.) 2385, and said indictment having been ordered filed  
14 under Case No. 21883-CD, and on recommendation of said Grand Jury,  
15 Judge James M. Carter then set bail for the petitioner William  
16 Schneiderman in the amount of \$100,000 and in the amount of \$75,000  
17 for the remaining petitioners, and thereafter, on the 7th day of  
18 August, 1951, petitioners filed with said Judge James M. Carter a  
19 motion to reduce the amount of bail; that the said Judge James M.  
20 Carter on August 29, 1951 disqualified himself from any further  
21 proceedings in the prosecution of the petitioners herein including  
22 proceedings on bail; that the said proceedings were then assigned  
23 by Chief Judge Paul J. McCormick to Judge William C. Mathes and the  
24 aforesaid motions to reduce bail came on for hearing before the said  
25 Judge William C. Mathes, and following a full hearing on said motions  
26 Judge William C. Mathes on August 30, 1951 did reduce the amount of  
27 bail for each of the petitioners to \$50,000, and the Court having  
28 taken testimony on the petition herein and having heard arguments,  
29 and the Court being fully advised in the premises, and it appearing  
30 to the satisfaction of the Court, and the Court finding for the  
31 reasons aforesaid that the relief prayed for in the aforesaid peti-  
32 tions for Writs of Habeas Corpus should not be granted, that the

1 orders to show cause why the petitions for writ of habeas corpus  
2 should not be granted should be discharged, and that said Petitions  
3 for Writs of Habeas Corpus should be denied, and said cause having  
4 been submitted to the Court for decision;

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the aforesaid  
6 Petitions for Writs of Habeas Corpus heretofore filed in the above  
7 entitled matters be, and the same hereby are, denied; and.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the aforesaid  
9 Orders to show Cause why the Petitions for Writs should not be  
10 granted be, and the same hereby, are discharged.

11 DATED: This 6th day of September, 1951.

12  
13 /s/ Ben Harrison  
14 United States District Judge

15 Received copy of the within  
16 Order Denying Petitions for  
17 Writs of Habeas Corpus, Dis-  
18 charging Orders to Show Cause,  
19 and Dismissing Writ of Habeas  
20 Corpus this 6th day of Septem-  
21 ber 1951, and approved as to  
22 form.

23 Ben Margolis

24 Daniel G. Marshall

25 Attorneys for Petitioner Philip  
26 Marshall Connelly

27 MARGOLIS and McTERNAN

28 By Ben Margolis

29 Attorneys for Remaining Petitioners



1 Ben Margolis  
112 West Ninth Street  
2 Los Angeles 15, California  
VAndike 7153  
3 and  
4 Daniel G. Marshall  
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5 TRinity 6011

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6 Attorneys for Petitioner- Appellant Philip Marshall Connelly  
7 Attorneys for remaining Petitioners-Appellants

8 IN THE UNITED STATES DISTRICT COURT  
9 IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
10 CENTRAL DIVISION  
11

12 LORETTA STARVUS STACK, AL  
13 RICHMOND, PHILIP MARSHALL  
14 CONNELLY, DOROTHY ROSENBLUM  
15 HEALEY, ERNEST OTTO FOX,  
16 WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

17 Petitioners-Appellants,

18 vs.

19 JAMES J. BOYLE, United States  
Marshal,

20 Respondent.  
21  
22

Nos. 13436/13447

NOTICE OF APPEAL

23 NOTICE IS HEREBY GIVEN that the petitioners-appellants  
24 above named hereby appeal to the United States Court of Appeals  
25 for the Ninth Circuit from the order denying the petitions for  
26 writs of habeas corpus herein and discharging the orders to  
27 show cause why the petitions for writs should not be granted,  
28 made and entered in this action by the United States District  
29 Court, Honorable Ben Harrison, Judge Presiding, on the 6th day  
30 of September, 1951.

31 DATED: This 6th day of September, 1951.  
32

/s/ Ben Margolis

Ben Margolis

/s/ Daniel G. Marshall

Daniel G. Marshall

Attorneys for Petitioner-Appellant  
Philip Marshall Connelly

MARGOLIS and McTERNAN

By /s/ Ben Margolis.  
Ben Margolis

15/ Leo A. Sullivan

Leo A. Sullivan

Attorneys for remaining Petitioners-  
Appellants



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Hightower 4-1707

Attorneys for remaining  
Petitioners

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CENTRAL DIVISION

LORETTA STARVUS STACK, AL  
RICHMOND, PHILIP MARSHALL,  
CONNELLY, DOROTHY ROSENBLUM  
HEALEY, ERNEST OTTO FOX,  
WILLIAM SCHNEIDERMAN, CARL  
RUDE LAMBERT, HENRY STEINBERG,  
OLETA O'CONNOR YATES, ROSE  
CHERNIN KUSNITZ, MARY BERNADETTE  
DOYLE and ALBERT JASON LIMA,

Petitioners,

vs.

JAMES J. BOYLE, United  
States Marshal,

Respondent.

Nos. 13436/13447

DESIGNATION OF RECORD

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION: ERNEST A. TOLIN  
UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA:

The petitioners above named designate for inclusion in the  
record on appeal herein a complete record of all the proceedings  
and evidence in the above entitled causes including the petitions  
for writs of habeas corpus, the orders to show cause, the stipula-  
tion and order treating the petitions as a joint petition for writ  
of habeas corpus, the return of the respondent, the reporter's  
transcript of hearing on September 6, 1951, the order denying the  
petitions and discharging the orders to show cause, the notice of

1 appeal, this designation of the record and any stipulations  
2 between the parties relative to the record on appeal herein or  
3 the argument of the appeal.

4 DATED: September 6, 1951.

5  
6 /s/ Ben Margolis

7 Ben Margolis

8 /s/ Daniel G. Marshall

9 Daniel G. Marshall

10 Attorneys for Petitioner Philip  
Marshall Connolly

11 MARGOLIS and McTERNAN

12 By /s/ Ben Margolis

13 Ben Margolis

14 /s/ Leo A. Sullivan

15 Leo. A. Sullivan

16 Attorneys for remaining Petitioner

17 Agreed to:

18  
19 United States Attorney